

# Public Utilities

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## The First Year under the Securities Act

*A Discussion of 1934 Utility Financing, Its Characteristics, and the Effects of Security Regulation upon It*

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PUBLIC utility financing in the amount of \$187,521,000 was consummated during the year 1934 at prices to cost the issuers 4.70 per cent per annum on the average. All of this financing was effected by debt instruments with maturities ranging from three to thirty years.

Out of the total, \$65,843,000 (35 per cent) was sold privately, \$89,687,000 (48 per cent) was offered publicly under provisions of the Securities Act of 1933 and the amended act, while \$31,991,000 (17 per cent) constituted exchange financing.

Secured issues constituted 55 per

cent of the debt; 36 per cent was secured by property, and 19 per cent by collateral; 45 per cent of the debt was unsecured.

Parent holding companies were the issuers of \$39,815,000 or 21 per cent of the total financing, sub-holding companies accounted for \$26,491,000 or 14 per cent, and operating companies issued \$121,215,000 or 65 per cent. Contractual debt retirement provisions were tied to \$97,993,000 worth of the debt while optional retirement by call was provided for in practically all cases.

As to purpose, 97 per cent of the fi-

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nancing was for funding or refunding operations, of which 17 per cent was for refinancing and consisted largely of securities exchanged for maturing obligations. This left about 3 per cent to be definitely labeled for expansion purposes. Investment bankers were directly involved in only \$119,000,000, or 64 per cent, of the total; the companies handled the balance of \$68,000,000 (36 per cent) without the aid of banker intermediaries.

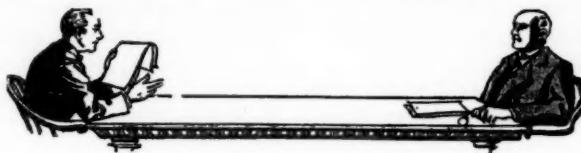
**T**HESE are the bald facts concerning 1934 utility financing, more details of which are summarized in the accompanying table. What do these facts indicate, if anything? First it must be admitted that the averages and percentages referred to cannot be taken too seriously; the very paucity of the year's financial transactions precludes self-sufficient statistical analyses. However, if the facts are read in the light of conditions in the industry they may reflect factors of financial and economic significance. It is the real purpose of this article to point out and consider, with little hope of answering, one or two questions raised by the record of 1934 financing.

The almost complete absence of expansion financing is perhaps the most striking bit of evidence in the record of an industry that has done little else but expand since its very inception. Even in 1933, when there was in total less than \$93,000,000 of financing, \$17,000,000 of that was for expansion. In the years prior to 1933, the record shows mounting totals as time is turned backward. Apparently the industry in 1934 reached almost the

absolute bottom of expansion as far as new financing was concerned.

**T**HE San Jose Water Works admitted in its registration statement that the proceeds from the sale of \$190,000 of its bonds (\$171,000) were to be used for "future additions, betterments, and for extensions." The American Water Works and Electric Company implied that such of the proceeds from its \$15,000,000 as were not used for refunding would go to enhance the company's capital; thus expansion of a sort may be attributed to \$2,430,800 of the total issue, although the expansion was undoubtedly confined to internal improvement in the working capital position which stood at a negative figure on November 30, 1933. Similar "expansion" of depleted working capital took some \$3,613,000 of the Northern States Power Company issue, thus bringing the grand total to \$6,233,800 of new securities issued for extensions, additions, and betterments in 1934.

It seems to the writer that the slowing down of expansion since 1930 and this relatively complete stoppage in 1934 may be taken as a sign of three things. First it indicates that the industry is no longer to be prodded by patriotic or sentimental pressure into physical expansion programs, when the future holds no signs that existing capacities will be utilized. Secondly, this apparent stagnation may be just an indication that utility managements have finally recovered from the bite of the "size" bug. This is to be hoped for in view of the difficulties that were generated while the companies were blindly reaching out for more



### Long-run Effect of Registration

**"A**ll in all, it seems that, in spite of the existence of registration costs in dollars, time, and worry, these costs are not insurmountable obstacles to financing nor are they altogether undesirable in their ultimate effects on utility issuers. The necessity for registration may eventually cause a receivership or two, but such occurrences will stop issues which otherwise might take an unjustified share of the available investment funds."

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properties at any price and regardless of the fitness of the acquisition.

**I**n the third place, it is true without a doubt that even the most naively hopeful utility managements have been affected recently by the uncertainties and potential dangers of impending political measures aimed at the utility industry. Even the wisest managements with the most acute perception of coming events have been in no position to forecast the industrial effects of political moves.

It is really difficult to criticize and interpret the administration's policy toward the utilities; its guns are ranged so indiscriminately that its barrage may wipe out the enemy and the neutral, willy nilly. To say the least, the sound of the guns and the knowledge that the triggers are fingered by impractical college professors and scalp-seeking congressmen are enough to discourage commitments of any sort.

Perhaps operating utilities are safe,

and perhaps only "the evil features of holding companies" are to be eliminated, but until the battle is over and the smoke has cleared away there can be no forward movement in utility investment. One hope is that this occasion to pause and reflect may be the origin of some sound and well-thought-out policies that will be a credit to the industry when it gets under way again.

**A**s indicated in the summary table, 48 per cent of 1934 financing was achieved by public offering under the Securities Act of 1933 and the act as amended in 1934. This total of \$89,687,000 comprised the bonds and notes of both holding and operating companies; it included large and small issues, from \$1,187,000 to \$35,000,000; it represented money borrowed at rates costing the companies from 3.44 per cent to 5.64 per cent.

On the other hand, \$65,843,000 of the financing was privately placed and this aggregate also included issues of

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all shapes, colors, and descriptions; maturities running from five to thirty years; issues of operating, sub-holding, and parent companies; rates resulting in costs from 3.95 to 6.5; and amounts from \$6,000,000 to \$18,000,000. A third technique of distribution—namely, exchange offers amounting to extensions—was used to dispose of \$31,991,000 of bonds in connection with refunding or refinancing projects.<sup>1</sup>

FROM this array there can be but one conclusion—the passage of the Securities Act did not stop utility financing. Utility managements were sufficiently versatile to effect needed financing one way or another. We have proof that financing has been done, can be done, and will be done with Federal Security Regulation a *fait accompli*. True, the volume of financing in 1934 was small, but enough has been said to indicate that influences other than security regulation were sufficient to account for that fact. None of the 1934 defaults or receiverships of utility companies were the result of impeded financing attributable to the Securities Act or its administration.

From this it should not be inferred that the Securities Act had no effect on utility financing. The act affected financing in at least three ways: it cost

<sup>1</sup> The American Water Works and Electric Company's issue of \$15,000,000 might in part be included in this class, because, although a public offering for sale, the issue was also offered in exchange for maturing bonds.

The compilation does not include the exchanges effected by the Associated Gas and Electric Corporation because that move is considered nothing more than a preliminary step in preparation for ultimate financial reorganization under § 77b of the Federal Securities Act.

the utilities money to comply with provisions of registration for public sale, it influenced some companies to effect their financing privately or through exchange offers, and, through the disclosure provisions, it undoubtedly did affect the marketing of issues by preventing some offerings entirely and by making others look less attractive.

THE cost of security registration is an item that has been much discussed and complained of. In the interests of accuracy the Securities and Exchange Commission examined the costs of registering six issues including three of the 1934 utility issues. Their figures (see page 279) indicate the costs to utility companies.

Furthermore, one has but to look at the 213 pages of registration statement prepared and presented to the commission by the Northern States Power Company to imagine the amount of work and worry involved in its compilation.

There is a cost, but what kind of a cost is it and what is it for? Note that registration cost American Water Works, a parent holding company, \$165,000; Northern States, a sub-holding company, \$107,500; and Boston Edison, an operating company, \$52,500 for two registrations. Apparently the cost varies with the complexity of organization in and below the issuing company responsible for the registered securities.

IT is conceivable, therefore, that the cost of registering the issues of some of the most complex holding companies would preclude registration entirely and thus prevent any public offering of some securities. If this be true, the end has justified the means.

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If the management of any company has such great difficulty trying to explain its history, purposes, organization, and intercorporate relationships that the problem is unsolvable or too costly of solution, then this company's issue is best off the market. Investors should not be asked or expected to contribute capital to such a company until a degree of understandable and manageable simplicity has been introduced by reorganization. Looked at in this way, the cost of registration might very well be counted as a cost of keeping the market free of parasitic securities in order that the companies with legitimate offerings may better proceed with their capital-raising projects.

**A**NOTHER factor that seems to be neglected in the hue and cry about the costs, delays, and inconveniences of security registration is the nonrecurring character of at least some portions of registration costs. Through the courtesy of the Edison Electric Illuminating Company of Boston the writer was furnished with a breakdown of this company's costs attributable to the registration of its two 1934 issues. The direct out-of-pocket costs involved for legal accounting and registration services were as follows for the July and November issues, respectively:

	<i>July Issue</i>	<i>November Issue</i>
Legal expenses .....	\$12,595 and \$ 5,274	
Statement preparation .....	13,154 and 10,455	
Total .....	\$25,749 and \$15,729	

From this, it is evident that the second registration was \$10,000 cheaper than the first. The second issue was smaller than the first by \$15,000,000, but there is nothing in the size of an issue to affect the cost items included above. The legal expenses were largely those of the underwriting syndicate although they were paid for by the Edison Company, the company's own legal staff taking care of the company's interests on a retainer basis. Further, according to the company, ". . . the work involved in the preparation of a second statement is not as great as in the preparation of an original statement, but, because the time given by the employees is not reflected in the expenses, the difference in expenses charged is not so great."

**T**HE lesser cost of subsequent registrations evidenced in the Edison Company's case would be even more marked for a company with a more complicated organization than the relatively simple, clear-cut operating set-up of the Boston utility. Once a company's history and the background of legal and economic factors affecting value are brought together



	<i>Legal Costs</i>	<i>Accounting Costs</i>	<i>Registration Costs</i>	<i>Total</i>	<i>Per Cent of Issue</i>
American Water Works & Electric Company ..	\$90,000	\$72,000	\$3,000	\$165,000	1.1%
Northern States Power Company .....	30,000	76,500	1,000	107,500	1.1
Edison Electric Illuminating Co. of Boston* ...	15,000	32,000	5,500	52,500	.1

\* Two issues.

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and a satisfactory audit is completed, perhaps at a very high cost, facts can be kept up to date by the establishment of proper routine methods of recording and accounting. Thus, on the occasion of subsequent security registrations, facts and audited statements would be more readily available with a corresponding reduction in legal and accounting fees for the special services incident to these subsequent registrations. The cost of the original registration might represent a fairly high initiation fee, but after that the payments would be comparable to dues—paid to keep the company a member in good standing of a rather exclusive club of registered security issuers.

The reasonable administration of the Securities and Exchange Commission in matters of security registration would seem to be a bright spot on the regulatory horizon. Speaking before the American Economic Association at Chicago on December 28, 1934, Hon. George C. Mathews, a member of the commission, admitted that registration requirements had probably been unnecessarily hard on many going concerns seeking registration of their securities. The commission recognizes this fact and is planning administrative measures that will reduce excessive burdens.

**C**ONCRETE evidence of the commission's willingness to make security regulation workable appeared on January 14th, last, when Chairman Kennedy announced new registration requirements. As embodied in Registration Form A-2 and an accompanying instruction book, the new requirements definitely reduce the burden and

expense of compliance with the Securities Act for those companies that can show a history of at least three years' earnings.

**T**HE changes effected in the new rules are largely to the end of cutting down the details in the nonschedule items. Instructions are to "explain briefly" regarding such factors as unusual litigation pending, material contracts, and material patents. The same accounting detail is prescribed, but here again the emphasis is moved from form to substance with the understanding that unusual conditions be clarified.

New promotion securities will continue to register on the old A-1 forms requiring greater detail, but utilities should benefit materially under the new requirements for going concerns. Even more important than any of these rules of procedure is the sympathetic and understanding attitude of the commissioners. They seem to know that corporations need to raise capital, and they are determined to make it possible for them to do so with as little inconvenience as is consistent with the principles of clear and truthful statement.

**I**F we consider the unprecedented amount of private financing which took place in 1934, the first, and perhaps the correct, implication to be drawn is that the Securities Act was its cause. However, even superficial examination of the companies listed in the table as practicing this technique convinces one that the Securities Act was not the cause; at least not in the sense that these concerns, being unable to register their issues, were forced to private sale. The average cost (5 per

## Characteristics of Public Utility Financing—1934

Company	Amount of Issue	Years to Maturity	Cost of Money*	Mortgage Security	Security	Collateral Security	Debenture Issues	Funding Refunding Issues	Purpose Expansion Money	Parent Holding Company	Sub-Holding Company	Issuer	Operating Company
<i>Private financing—35%</i>													
1. Ohio Fuel Gas Co. ....	\$6,000,000	5%	5-12	†				\$6,000,000	\$6,000,000				\$46,000,000
2. United Fuel Gas Co. ....	6,000,000	5	5-12	†				6,000,000	6,000,000				† 6,000,000
3. Brooklyn-Manhattan Transit Corp. ....	8,000,000	6	15	†				8,000,000	8,000,000				
4. Long Island Lighting Co. ....	6,315,000	5	20	†	\$6,315,000				6,315,000				
5. Brooklyn-Manhattan Transit Corp. ....	2,000,000	6	15	†		2,000,000			2,000,000				
6. Chicago Dist. Elec. Generating Corp. ....	10,000,000	3-4-5	3-10	†			10,000,000		10,000,000				10,000,000
7. Consolidated Gas, Electric Light & Power Co. of Balti are ....	18,000,000	3-4	30	†	18,000,000				18,000,000				18,000,000
8. Consumers Power Co. ....	8,168,000	4	10	†	8,168,000				8,168,000				8,168,000
9. Bangor Hydro-Electric Co. ....	1,360,000	4	20	†	1,360,000				1,360,000				1,360,000
Total private financing ....	\$65,843,000		16.6 yrs. (Av'g)	5.0%	\$33,843,000	\$10,000,000	\$22,000,000		\$65,843,000	***	\$16,315,000	***	\$49,528,000
Per cent of private financing ...				51%		15%	34%	100%		***	25%	***	75%
<i>Public financing—48%</i>													
1. American Water Works & Elec. Co. ....	\$15,000,000	5%	10	5.0%		\$15,000,000			\$12,569,200	\$2,430,800	\$15,000,000		
2. San Jose Water Works Co. ....	1,187,000	5	20	5.64	\$1,187,000				997,000	190,000			\$1,187,000
3. Northern States Power Co. ....	10,000,000	5	30	5.48	10,000,000				6,387,000	3,613,000	\$10,000,000		
4. Western Massachusetts Companies ....	8,500,000	4	5	4.45				\$8,500,000	8,500,000				
5. Edison Elec. Illum. Co. of Boston ....	35,000,000	3	3	3.62				35,000,000	35,000,000				
6. Edison Elec. Illum. Co. of Boston ....	20,000,000	3	3	3.44				20,000,000	20,000,000				
Total public financing ....	\$99,687,000		7.6 yrs. (Av'g)	4.12%	\$11,187,000	\$15,000,000	\$63,500,000		\$81,453,200	\$6,233,800	\$23,500,000	\$10,000,000	\$56,187,000
Per cent of public financing ....				12%		17%	71%	93%	7%	26%	11%	63%	
<i>Exchange financing—17%</i>													
1. Northwestern Telegraph Co. ....	\$1,150,000	4 1/2%	10	4.50%	\$1,150,000				\$1,150,000				\$1,150,000
2. Laclede Gas Light Co. ....	10,000,000	5	5.50	10	10,000,000	\$9,951,000			10,000,000				10,000,000
3. Virginia Electric & Power Co. ....	9,931,000	5 1/2	10	6.12	4,000,000				9,951,000				
4. Atlanta Gas Light Co. ....	4,000,000	5-6	20	5.97	4,000,000				4,000,000				
5. Virginia Electric & Power Co. ....	6,540,000	5	20	5.39	6,340,000				6,540,000				
Total exchange financing ....	\$31,991,000		11.7 yrs. (Av'g)	5.68%	\$22,040,000	\$9,951,000	***		\$31,991,000	***	***		\$15,500,000
Per cent of exchange financing ...				69%		31%	***	100%	***	***	52%	***	48%
Total—all financing ....	\$187,521,000		11.5 yrs. (Av'g)	4.70%	\$67,070,000	\$34,931,000	\$85,500,000		\$181,287,200	\$6,233,800	\$39,815,000	\$26,491,000	\$121,215,000
Per cent of all financing ....				36%		19%	45%	97%	3%	21%	14%	65%	

\* Figured from net proceeds to issuer before expenses, taxes, etc.

† Details omitted at the request of certain companies wishing to avoid disclosure of rates.

‡ Guaranteed by Columbia Gas & Electric Co.

§ Guaranteed by Western Union Telegraph Co.

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cent) indicates that the large institutions that purchased the securities considered the issuers to be good risks.

The Brooklyn-Manhattan Transit Company has recently decided to register its 1934 issues in order to qualify for listing and trading privileges on the New York Stock Exchange, thus demonstrating its ability and willingness to meet the new requirements. It is true that the Long Island Lighting Company began registration proceedings and then, for some reason or other, abandoned them, but in every other case it is known that the utility managements made a free choice between the alternatives of private sale and registration for public sale after due consideration of the costs and time involved.

**S**INCE the utilities had the opportunity to choose and based their choice of financial method on cost, it may be assumed that the availability of concentrated cheap money was a contributing factor in their decisions. To constitute a private sale exempt from the registration provisions of the Securities Act, a distribution must involve no more than twenty-five purchasers. The desirability and possibility of such financing are limited. Only bonds, and perhaps nonvoting stocks, would be adaptable to this method of sale as long as companies desire to avoid a concentration of the control of their businesses.

At present the country's financial institutions are surfeited with funds seeking employment in face of a very limited number of investment opportunities. If and when a more normal investment market recurs, the ordi-

nary investment policies of such investors will dictate higher rates and greater diversification.<sup>2</sup> It may be considered, therefore, that the existing opportunity for private sale at low cost to issuers is an abnormal and temporary condition. Furthermore, from the issuer's standpoint, such concentration of holdings even of bonds might not appeal as a continuous policy, in so far as diversification of security holders widens the market for future security sales.

**I**T may be expected that the proportionate costs of relatively small issues will be appreciably higher because registration costs do not vary with the size of issues, and perhaps the future financial practices of utilities may be affected by this fact. It seems reasonable to conclude that either there will be a continuance of private offerings of small issues, or financial programs will be arranged to include larger-sized issues whenever possible. Apparently the management of the Bangor-Hydro Electric Company was much impressed by the apparent cost of registering its \$1,360,000 issue, although the San Jose Water Works proceeded to register an even smaller issue of \$1,187,000 without much hesitation.

All in all, it seems that, in spite of the existence of registration costs in dollars, time, and worry, these costs are not insurmountable obstacles to

<sup>2</sup> It is entirely possible that the future rulings of the Securities and Exchange Commission may effectively limit the institutional market for unregistered securities. This might be done by a ruling to the effect that unregistered securities could not be resold within a year after purchase, which action would eliminate as potential purchasers many insurance companies whose regulations do not permit contracts against resale.

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financing nor are they altogether undesirable in their ultimate effects on utility issuers. The necessity for registration may eventually cause a receivership or two, but such occurrences will stop issues which otherwise might take an unjustified share of the available investment funds.

**A**LTHOUGH registration avowedly will never pass as a purchase recommendation by the Securities and Exchange Commission, nevertheless registration will be a mark of distinction in the sense that the issuing company has satisfied the commission with respect to its integrity, if not its managerial ability. What could be more significant or more worth a reasonable price than a bit of evidence of the integrity of a public utility in the midst of the current indiscriminate condemnation of the industry?

In the year's exchange financing is suggested another way of avoiding (not evading) the Securities Act. In these cases we find evidence of a reasonable possibility of persuading utility investors of the necessarily permanent character of utility debt. Northwestern Telegraph Company's exchange of new bonds for maturing ones may be eliminated from the discussion because of the fact that a large share of the maturing issue was owned by the parent Western Union.

But the successful efforts of Virginia Electric and Power Company to take care of maturities and underlying issues are significant. This company chose direct appeal to existing investors rather than registration and public sale of refunding bonds.<sup>3</sup>

**T**HE cost incurred by the Virginia Company suggests limitations to the exchange procedure, however. It was considered necessary to offer a cash bonus for exchange in addition to having higher coupon rates on issued bonds at the first offering. The result was a cost to the company of 6.12 per cent on the first exchange and a cost of 5.39 per cent on the second offer. Not included in these money costs were taxes and expenses of \$170,000 in connection with the exchanges.<sup>4</sup> There may be some question whether any saving resulted from avoiding registration and eliminating payment of bankers' fees for underwriting. Similarly the Atlantic Gas Light Company's extension resulted in a cost of 5.97 per cent exclusive of expenses in connection with the ex-

<sup>3</sup> It was implied by the company that bond market conditions were equally influential in their choice of the exchange method.

<sup>4</sup> An elaborate prospectus was prepared in each case even though there was no registration; in fact, these documents were more lengthy and complicated than any that have been published in compliance with registration requirements.



**G**"It is really difficult to criticize and interpret the administration's policy toward the utilities; its guns are ranged so indiscriminately that its barrage may wipe out the enemy and the neutral, willy nilly. To say the least, the sound of the guns and the knowledge that the triggers are fingered by impractical college professors and scalp-seeking congressmen are enough to discourage commitments of any sort."

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change. The fact that these two companies incurred costs higher than the average of public or private financing implies that the exchange alternative will continue to be a third choice necessitated by conditions inherent in a company's individual situation.

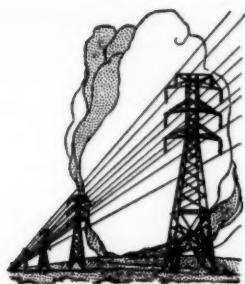
The extension financing of Laclede Gas Light Company is classed as refinancing even though no new securities resulted from the transaction. This company effected an extension of its April, 1934, maturities by getting bondholders to accept \$21.60 and another pad of 5 per cent coupons in consideration for postponement of the principal due date to April, 1939. The cost in this case, exclusive of expenses, amounted to 5.5 per cent per annum.

ONE can only speculate regarding the effect of the disclosures required under the terms of the Securities Act. It is true beyond much doubt that the significance of most of the facts contained in a registration statement and in a prospectus will be quite lost on the "average investor." Interpretation of such statements presupposes more than average knowledge of law, accounting, and economics. It is safe to conclude that the Securities Act does nothing directly to inform or guide the investment policies of the nation's investors.

However, to investment counselors, institutional investors, and others trained to translate facts into values, the complete statement of accounts and contractual relationships should be of material aid. Through this important section of the market for securities, prices and interpretive publicity will, indeed, affect individual in-

vestors and thus give effective expression to the purposes of security regulation. In partial substantiation of the claim that there is such an indirect effect is a current rumor that one registered utility issue was quite "sticky" in its ultimate distribution because of a stated fact the significance of which might have been ignored or easily misinterpreted by the layman. The market read this particular fact, correctly, I believe, as being somewhat unfavorable to the standing of the issuing company, whereas its misinterpretation by unsophisticated investors attempting to make their own use of the prospectus might have been for better or for worse.

IT is true that many of the facts disclosed under present regulations were always, even in "the good old days," available to investment bankers who cared to look, and to investment counsel who had contacts to facilitate investigation. Now, however, there is some assurance that connivance between issuers and bankers and laziness on the part of qualified investigators will not serve to cover up or soft-pedal unfavorable factors in a situation. Again it may be concluded that a long-run desirable result of security regulation will be the development of a more discriminating securities market. This will be to the great disadvantage of utilities accustomed to the sale of securities on the strength of "front." However, it should materially benefit those companies whose earnings and management are backed up by sound economic factors and not complicated by the legal mazes of multiple inter-corporate relationships.



## The "Yardstick" Experiments

*To what extent can the Federal government fulfil its low power rate promises? Bearing of the United States Census figures on the general question of the rates of municipal and private plants.*

By OWEN ELY

ATTENTION of the public continues to be focused on municipally owned utility properties in the electric industry. The administration plans to extend municipal ownership and thereby obtain a rate "yardstick"—or perhaps a big stick?—to force private companies to reduce rates.

Methods to be employed are: Sale of government water power in TVA and other power development "areas," under agreements with municipalities for resale at very low rates to consumers; government credits to buy or build municipal plants; liberal long-term government credits to domestic consumers to buy electric refrigerators, ranges, etc., at low prices; and further investigation of the national rate structures by the Federal Power Commission, etc.

In the last year magazine and newspaper articles by members of the TVA staff or government supporters

have pointed out some of the low rates now charged by municipalities, and have held out high hopes to the public that privately owned companies will soon be forced to cut rates deeply to "relieve" consumers.

Municipal ownership many years ago was a political slogan to conjure with; since the war it had fallen into drab disuse, until revived by the New Dealers. While President Roosevelt's initial scheme for a huge water-power development at Niagara, paralleling efficient private plants, was apparently doomed to failure by the refusal of Congress to pass the Canadian treaty, nevertheless other schemes have been set in motion. The principal projects for distribution "areas" are the Tennessee river, the Colorado river, and the Columbia river. Other more nebulous proposals are for developments in the Missouri river watershed and areas in California.

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THUS far, however, the Tennessee valley development is the only one sufficiently advanced to permit framing of rate proposals. It is proposed that municipalities within the area to be supplied by the government from Muscle Shoals shall have the right to purchase power at an average rate of 7 mills per kilowatt hour, but must resell at maximum rates to consumers beginning at 3 cents and declining to 4 mills, depending upon the amount of current used. According to David Lilienthal, TVA director, the wholesale rate will be sufficient to cover all costs, including maintenance, depreciation, and taxes, so that the project will be strictly "self-supporting and self-liquidating."

Before analyzing these figures further let us turn to the general information available on existing utility rates, particularly under municipal ownership.

The Census Bureau in the past year has been releasing some rather comprehensive statistical tables on the electrical industry, based on the 1932 Census, most of which tabulate separate returns for commercial and municipal establishments. From these figures it is now possible to obtain a picture of municipal ownership as contrasted with private operation in the year 1932.

FROM these tables we learn that rates charged ultimate consumers by municipally owned plants in the east-south-central division of the United States (which includes the TVA section) averaged as follows: Farm service 6.0 cents; domestic service 5.8; retail commercial 4.0; wholesale commercial 3.0; street

lighting 1.6; average 4.8. Rates charged by commercial plants averaged 2.2 cents, only 46 per cent of the municipal average. Rates to small consumers were slightly more than for municipal plants, but wholesale consumers obtained current at only about one third the rate charged by municipal stations.

If these figures are any criterion it is difficult to understand how municipalities can sell to small consumers at rates ranging from 4 mills to 3 cents, even though they get power wholesale at 7 mills average cost, as the cost of local *distribution* is considered the important factor in domestic rates.

IN the four states included in this area (Kentucky, Tennessee, Alabama, and Mississippi) the total number of customers in municipal plants was only 62,030 and these customers used only a little over 1,000 kilowatt hours each in 1932, including current for resale. Small consumers, to whom the great bulk of the sales were made, averaged about 920 kilowatt hours per annum. For domestic sales alone the average was only about 711 per annum. It is evident, therefore, that most domestic consumers in this territory, unless they increase consumption very substantially, will have to pay the maximum rate of 3 cents per kilowatt hour, which is based on monthly consumption up to 50 kilowatt hours, or 600 per annum. Even the 3-cent rate would, however, represent a substantial saving from the 1932 average rate of 5.8 cents paid by domestic consumers to municipal plants and 6.1 cents to commercial plants—i. e., if the new schedules prove feasible.

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As Thomas F. Woodlock has pointed out in *The Wall Street Journal*, the proposed rates

look absurdly low by comparison with the rates charged by the most successful municipal plants in the country situated in large cities. Take Springfield, Ill., for example; there the rates are 5 cents for the first 30 kilowatt hours per month, 4 cents for the next 30 kilowatt hours, 3 cents for the next 40 kilowatt hours, and 2 cents for all over 100 kilowatt hours—low rates in themselves. How can Muscle Shoals expect to cut them (as it proposes) over a wide territory with an average load factor that cannot in the nature of things match that of Springfield? Can a municipality live on such terms without a large commercial and industrial load?

The city of Tupelo signed the first municipal contract with TVA last November, with bills for small domestic consumers at the maximum rate of 3 cents per kilowatt hour. It is understood that the low schedule of rates for *domestic* consumers cannot be raised in Tupelo for twenty years; but rates for service to other classes of consumers may be increased by surcharges (straight percentages added to bills), "initially established by the municipality and modified from time to time as net revenues improve."

ADDITIONAL power agreements have now been signed with a number of other cities, at least three of which, Knoxville, Tennessee, and Florence and Bessemer, Alabama, are receiving financial aid from PWA to

build municipal plants, to the aggregate amount of about \$3,600,000. More recently, however, TVA has made arrangements to purchase the Tennessee Public Service Co. electric properties in and around Knoxville, in lieu of constructing the municipal system.

Contracts have also been signed for a number of smaller cities, including Russellville, Athens, Tuscumbia, Sheffield, and Decatur, Alabama; Pulaski, Tennessee; and Amory, Mississippi. In all the agreements signed, excepting the original one with Tupelo, it is understood that a clause has been inserted permitting increases in all classes of rates *including* those for domestic consumers, with the specification that TVA *shall* consent to such increases if they prove necessary to make the local service self-supporting and on a financially sound basis.

The wholesale rate charged to all these municipalities is expected by TVA to average around 7 mills, but it will vary with the load factor for individual localities. It will be interesting over the next few years of the experiment to trace the record of the new wholesale and retail rates together with the retail surcharges. The theoretical TVA wholesale rate of 7 mills compares in the case of Tupelo with 1.7 cents formerly charged by the Mississippi Power Co. Can TVA



**Q**"In the last year magazine and newspaper articles by members of the TVA staff or government supporters have pointed out some of the low rates now charged by municipalities, and have held out high hopes to the public that privately owned companies will soon be forced to cut rates deeply to 'relieve' consumers."

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increase the load factor sufficiently to justify economically a reduction of nearly 59 per cent in the wholesale rate, even though the former rate may have been somewhat too high? In this connection it must be emphasized that no matter how much saving might be obtained in producing electricity at the source, it is the cost of *distribution* which is the main factor in the kilowatt rate, both wholesale and retail.

THE TVA area does not seem a very promising section in which to begin the government experiment of expanding municipal operations. In 1932 municipal plants in the four states above referred to, of which the TVA area comprises only a part, sold about 66 million kilowatt hours or only about 2.3 per cent of the sales by commercial companies, and about one tenth of 1 per cent of total sales for the United States. Of course, these figures may be increased somewhat if and when Knoxville, Tennessee, operates a municipal plant with Federal assistance.

According to an article in *Fortune*:

Nine power companies under two great holding corporations, Commonwealth & Southern and Electric Bond & Share, now serve 550,000-odd valley customers at an average production and transmission cost estimated at 9 mills per kilowatt hour [this figure is, however, a highly approximate estimate]. These private companies combined are equipped to supply 33 per cent more power than the valley is using. Within a very few years, thanks to TVA, excess production will jump to 66 per cent. How on earth the valley is to absorb all this excess power and what it will mean to the power companies and a \$400 millions invested in private power, power men would like very much to know.

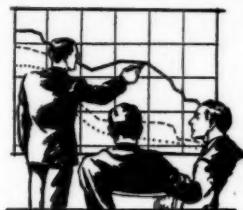
Are not the TVA proposals likely in the end to produce results somewhat comparable to the development

of the Canadian National Railways in Canada, which has lost tremendous sums for that government because most of the mileage was not needed and local politics resulted in extravagant expenditures in operation; or comparable to the Erie canal or the Mississippi River Barge Lines, which duplicated existing rail facilities? Some government projects, such as the Panama canal, have doubtless proved profitable; but only where economically justified on a cost-of-service basis and efficiently constructed and operated. The canal was built under U. S. Army engineers' supervision and is operated by the War Department primarily for war purposes.

TURNING to broader phases of the question of municipal ownership in the United States we find from the Census figures that in 1932 municipal plants produced less than 6 per cent of the country's total horsepower and obtained about 6 per cent of the total revenues from electric service. Rates charged by municipal plants averaged 3.1 cents against 2.7 for commercial plants. Breaking down the figures into the various classes of consumers served, we have the following:

	Commercial	Municipal
Farm service .....	2.8¢	5.6¢
Domestic service .....	5.6¢	4.7¢
Retail commercial .....	4.3¢	2.6¢
Wholesale commercial ..	1.5¢	1.7¢
Municipal street lighting	4.7¢	2.1¢
Street railways .....	.9¢	1.1¢
Electrified steam divisions	.9¢	3.5¢
Other service .....	2.1¢	1.3¢

It is obvious that municipalities, as owners, allow themselves low rates on street lighting. If they charged the same rate as the commercial companies the average rate for the municipi-



### Is TVA on a Sound, Economic Basis?

*“Are not the TVA proposals likely in the end to produce results somewhat comparable to the development of the Canadian National Railways in Canada, which has lost tremendous sums for that government because most of the mileage was not needed and local politics resulted in extravagant expenditures in operation; or comparable to the Erie canal or the Mississippi River Barge Lines, which duplicated existing rail facilities?*

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pal plants would be raised about 10 per cent to 3.4 per cent.

**A**NOTHER point worth noting is that the municipal plants distributed some 350 million kilowatt hours as "free service." Presumably such service was to the municipalities for street lighting. Had this been charged for at the same rate as levied by private companies, the municipal plants would have enjoyed an average revenue per kilowatt hour from all sources of about 3.6 cents—nearly one third more than the average rate of private companies.

Analyzing the consolidated balance sheets for commercial and municipal companies, the former have a total fixed capital of \$14,370 millions against only \$613 millions for the latter. Long-term debt for the private companies is about 46 per cent of fixed capital and for municipal plants about 34 per cent. Retirement re-

serves for private companies were about 8 per cent of fixed capital while municipal companies had accrued reserves of nearly 13 per cent. Private companies made a poorer showing with respect to current financial position but this is doubtless explained by inability of private companies to do any recent financing.

**T**HE Census figures include consolidated income accounts in 1932 for all commercial and municipal establishments. It is, of course, unfair to compare the two with respect to net income because of differences in taxes, interest rates on bonds, etc., municipal plants being favored by local tax exemption, low interest rates on tax-free municipal bond issues, etc. Adjusting income to exclude taxes we find that for every dollar of revenue obtained by private companies about  $48\frac{1}{2}$  cents remained after payment of expenses, retirement

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charges, net rentals, and allowance for uncollectible bills; while for municipal plants on the same basis the ratio was only about 35 per cent. Had municipal companies paid out the same proportion of revenues in taxes as commercial companies their tax bill would have increased about ten-fold and their net income after interest charges would have amounted to about 18 per cent of total income compared with 24 per cent for the commercial companies.

Of course these comparisons, unfavorable to the municipal companies, are perhaps due to the smaller scale of their operations rather than to in-

ferior management. Nevertheless, it is difficult on the basis of these figures to understand the long-term favorable results anticipated from the extension of municipal ownership. But if the Federal government is going to pour hundreds of millions of dollars out of the taxpayers' money, through great power developments selling electricity below cost, into the hands of small consumers, creating another favored class, there is little incentive to make any careful statistical comparisons to serve as a basis for appraising rate policies or cost of service in the TVA area or elsewhere.



### Odd Items about the Utility Services

DURING the decade 1920-30, an average of \$4,000,000,000 annually in new capital was invested in American industry. But during 1933 new issues were only 4 per cent of this normal.

\* \* \*

NEW HAMPSHIRE, with 61.49 per cent of the farms having the advantage of electric service, has displaced California as the state in which the highest percentage of farms are served with electricity.

\* \* \*

SINCE Tupelo, Miss., started using TVA power in March, 1934, to November, 1934, electric consumption for residential purposes has risen from 41,000 kilowatts to 89,000 kilowatts, an increase of 126 per cent.

\* \* \*

ONLY a few years ago it was necessary to change locomotives on passenger trains every 100 or 150 miles. Now runs of 500 miles are not uncommon, and much longer runs have been made for test purposes.

\* \* \*

IN 1909 there were 1,410 municipally owned electric plants; 3,014 in 1922; 2,198 in 1927; 1,802 in 1932. The number of municipally owned gas plants has remained about the same for the last four or five years: 44 manufactured and 34 natural.

\* \* \*

THE gas and electric expenditures by the average family aggregate 1.67 per cent of the family budget, and that, subdivided between gas and electricity, is about 1 per cent for electricity and two thirds of 1 per cent for gas. Food takes 30 per cent and clothing 12 per cent of the family budget.

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# Remarkable Remarks

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*"There never was in the world two opinions alike."*  
—MONTAIGNE

HAROLD L. ICKES  
*Public Works Administrator.*

"PWA has never been in politics."

PRESIDENT ROOSEVELT.

"More and more people are doing their own thinking."

HENRY FORD.

"So far as the Ford Motor Company is concerned,  
the depression is over."

DANIEL CALHOUN ROPER  
*Secretary of Commerce.*

"The government must encourage business profits in  
order that the government itself may survive and function."

WALTER S. GIFFORD  
*President of the American Telephone and Telegraph Co.*

"We . . . have no objections to investigation by  
properly constituted authorities. We have no skeletons  
in our closet."

RICHARD WHITNEY  
*President, New York Stock Exchange.*

"If wishful thinking by (stock) brokers had any  
power, the country today would be riding the high  
tide of recovery."

*Miami Daily News.*

"There is under way a nation-wide campaign to  
convince business in general that the TVA is the beginning  
of the end of private industry and business."

MERLE THORPE  
*Editor, Nation's Business.*

"The trouble with the prophets of progress is that  
they don't go far enough. There is enough unfinished  
business lying around the world to give permanent em-  
ployment to all its idle minds."

SILAS H. STRAWN  
*U. S. Chamber of Commerce.*

" . . . all that the country needs is a thorough  
spirit of cooperation. And when I say 'coöperation'  
I mean a condition in which government does not  
attack business and business does not attack the govern-  
ment."

HON. T. STEWART LYON  
*Ontario Hydro Electric  
Commissioner.*

"Very few people realize that vast new markets  
for hydro power can be created by using electricity to  
decompose water into hydrogen and oxygen, a plentiful  
supply of which would result in the attraction of many  
industries to Ontario."



# The Federal Power Commission and the Power of Politics

## No. 2. The present set-up and outlook

In the previous article the author outlined the early obstacles and struggles of the commission (see *PUBLIC UTILITIES FORTNIGHTLY*, February 28, 1935). In the present article he emphasizes among other things the importance of the personal equation in the administration of the law and the present aim at co-ordination between the general power policy of the executive and that of the commission. The author believes that as presently constituted the commission, for the first time in its history, is taken seriously as an agency for the development of a national power policy.

BY E. PENDLETON HERRING

THE officials charged with the direct responsibility of enforcing the Federal Water Power Act of 1920 were well aware of the faults of organization and personnel of the Federal Power Commission.

The various cabinet officers who served as *ex officio* commissioners prior to 1930 were dissatisfied with the conditions of administration. These commissioners attempted to secure amendatory legislation in 1921, in 1926, and again in 1928. They bluntly stated that the public interest could not be protected under their limited authority.<sup>12</sup>

Their problems cannot be appreciated without considering the attitude of the power interests toward the commission. There cannot be the

slightest doubt that great pressure was exerted upon the Federal Power Commission and that the commission was forced to give way to this administrative lobbying. Abundant proof of this was uncovered by the congressional investigation in 1930.

THE question turned largely upon how closely the Federal authorities were to scrutinize the accounts of the power companies. The commission had the task of auditing and preserving the records of the original cost of water-power projects for two purposes:

1. In order to aid the commission and state regulatory bodies in passing upon the rates charged by these companies for the electricity generated.
2. In order to fix the "net investment" which the government would

<sup>12</sup> Annual Report, 1928, p. 2.

## PUBLIC UTILITIES FORTNIGHTLY

have to pay if it were to "recapture" the property at some future date.<sup>13</sup>

THE personnel definitely assigned to the work of the commission was wholly inadequate to make these cost determinations and valuations, the result being that much of this work was delegated to the field agencies of the three departments, namely, the Corps of Engineers of the War Department, the Forest Service of the Department of Agriculture, and the Geological Survey of the Department of the Interior.

In the opinion of Executive Secretary Merrill and Chief Accountant King the field agencies of the departments were not equipped for this work.<sup>14</sup> A generous valuation was obviously to any company's advantage and many were charged with questionable practices and with padding their accounts. If these abuses were to be checked experienced valuation engineers and accountants were needed.

Since ordinary bookkeepers were not qualified, the commission was forced to rely upon such specialists as the department chose to employ. Over a 7-year period one valuation engineer and one to four accountants were ap-

<sup>13</sup> The basis for determining the "net investment" is the actual legitimate original cost of projects constructed new under license or the "fair value" as of the date of license of projects already constructed when license is issued. Under certain specific provisions of the act the actual cost of projects constructed new under license was to be determined by the application of certain rules and principles laid down in the act itself—namely, the accounting rules of the Interstate Commerce Commission applicable to steam railroads. The act prescribed no rule or method to be followed in determining the fair value of projects already constructed when license was issued.

<sup>14</sup> See Annual Reports from about 1923 to 1928, inclusive, where statements to this effect are made and repeated from year to year.

pointed. King found that the power companies failed to comply with requests for information, to answer correspondence, to file statements, or to produce records. They were lax in keeping their accounts according to the commission's rules and some even used obstructive tactics.<sup>15</sup>

OUT of this disagreement as to how thoroughly the books of the power companies should be supervised arose the chief defection within the commission. When Merrill was secretary he supported Accountant King's pleas for more assistance. After his resignation from the commission in 1929, his successor, F. E. Bonner, pursued a very different line.

Here is a very clear illustration of how a difference of personal viewpoint may occasion a complete reversal in administrative policy. Had the commission been composed of active and alert administrators the personal views of their executive secretary would have been a matter of little consequence, but the peculiar structure of the commission placed great discretion in the hands of this civil servant.

On March 4, 1929, three new cabinet members had become the *ex officio* commissioners. On July 1, 1929, Bonner undertook his duties and in the next three months a new chief engineer, a new solicitor, and a new chief counsel came to the commission. Of the eight chief officers only the chief accountant remained as a link to the old commission.

IN marked contrast with his predecessor the new secretary was en-

<sup>15</sup> Hearings on H. R. 11408. Committee on Interstate and Foreign Commerce, 71st Cong. 2nd Sess. 1930, p. 37.

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tirely complacent in his acceptance of the limitations of the commission's activities. He saw no need for a special staff of accountants and even expressed the suspicion that "the work was purposely allowed to fall behind in order to provide basis for demands on Congress for increased appropriations."<sup>16</sup> He charged that the auditing department had been much too strict and that the widespread publicity accorded their findings had amounted to persecution of the power industry.<sup>17</sup>

Much evidence was brought out in the congressional hearings to show Bonner's exceeding conciliatory attitude toward the power interests.

WITHOUT going into the validity of the charges and counter-charges that were evoked by the congressional hearings and that furnished the press with sensational stories, the fact can be clearly established from the Annual Reports that a reversal of policy took place under Bonner. He recognized no inadequacies in the commission's authority. "During the nine years that have passed since the enactment of the law, its administration has suggested no need for altering the present scope of its regulatory provisions," he reported. He greatly mini-

mized the importance of Federal regulation of electrical power according to the view that "its transportation lacks the complicated interstate relations affecting large groups of states, as in the case of railroad transportation."<sup>18</sup> His desire to hasten water-power development was manifest. In his last report he stated: "Through efforts made during the past year the docket has been practically cleared of applications for large projects contemplating early construction operations."<sup>19</sup>

IN evaluating the part of Mr. Bonner it is exceedingly difficult to get at the truth. The investigation conducted by a congressional committee revealed many facts which according to their selection and arrangement can be made into a case in greater or less degree derogatory of Bonner's administration. The judgment of his attitude held by the press and by those in important governmental positions is of more significance than the truth or falsity of the accusations themselves since these opinions were determining factors in subsequent events.

President Hoover in a message to Congress December 7, 1929, urged a reorganization of the commission and an extension of its authority. Several

<sup>16</sup> *Ibid.* p. 92.

<sup>17</sup> *Ibid.* 105-107.

<sup>18</sup> Annual Report, 1929, p. 6.

<sup>19</sup> Annual Report, 1930, p. 7.



**Q** "In the past, as we have seen, the (Federal Power) commission has reflected the policy of the occupant of the White House. The present commission takes its policy from the declarations of President Roosevelt. This is desirable at the present time in view of the vicissitudes the commission has suffered and in view of the critical phase our power policy is undergoing."

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bills were introduced to accomplish these ends. The complexities involved in bringing within the scope of the commission's authority certain aspects of interstate power transactions apparently discouraged Congress from undertaking such legislation,<sup>20</sup> but the hearings held during the spring of 1930 abundantly demonstrated the breakdown of power regulation. Something had to be done.

**C**ONGRESS wiped the slate clean and directed the President to appoint a fresh commission. On June 23, 1930, an amendatory act was approved by President Hoover establishing a board of five full-time commissioners. A great deal of indignation was expended upon the alleged iniquities of the power trust and the shortcomings of Executive Secretary Bonner.

Righteous wrath characterized most of the discussions. The basic problems were not considered. Congressional energy was expended in denunciation of the "power interests" and in tinkering with the details of the administrative board. Should there be three members or five? More fundamental questions were left unanswered: should conservation be stressed or rapid development of water power; should the authorities actively coöperate or strictly and severely regulate; should the Federal government play an active or a passive rôle?

**C**ONGRESS made no positive statement as to what it understood to be the public interest in water-power development. Wide discretion accordingly remained in the hands of the commissioners for interpreting the act.

<sup>20</sup> *Ibid.*, p. 15.

Immediately upon taking up their duties the new commissioners discharged the solicitor, the chief accountant, and the executive secretary. Commissioner George Otis Smith explained: "Our reason for treating the three men alike is to stop immediately the internal strife which has made the staff anything but a working body."<sup>21</sup>

**T**HE Senate was not satisfied with this explanation: was not Bonner the discordant element and had he not already indicated his intention of resigning? In the Senate the commission's removals were compared with decimation of the Roman Legionnaires where every tenth man was counted off for slaughter regardless of his guilt or innocence in order that discipline might be restored in the ranks.

Political capital was made of the fact that Russell and King were dismissed in the midst of trying a much disputed case and that Bonner shortly after leaving the power commission was given a job in the Department of the Interior.

The Senate attempted to recall the name of Commissioner Smith which they had already ratified arguing that confirmation did not become final until the conclusion of the 2-day period allowed by the Senate rules for the presentation of a motion to reconsider. By a vote of 44 to 37 the Senate sought an opportunity of retiring from office the appointee just confirmed.

**P**RESIDENT Hoover on January 10, 1931, informed the Senate: "I cannot admit the power in the Senate to

<sup>21</sup> *Congressional Record*, Jan. 5, 1931, p. 1390.

## Relation between White House and Commissions



*"THE White House is occupied by transients; our commissions are better designed for continuity in policy. No sensible commissioners will bluntly defy the President; but no wise President will ignore the views of a commission that has gained public confidence and esteem through the clarity and thoroughness of its understanding of the nation's power interests."*

encroach upon the executive functions by removal of a duly appointed executive officer under the guise of reconsideration of his nomination. At the same time in a statement to the press Hoover protested against the attempt made in the Senate to symbolize him as the defender of the "Power Trust."

The problem of power control was much discussed as a possible campaign issue and the apparent opportunity to turn this situation to political account was not neglected by the President's opponents.

Senators displayed an eagerness to criticize, but the entire episode of recalling appointees was doomed to futility. The Chief Executive was under fire from the Senate and his appointees were made the target of political sniping. From the liberal camp in Congress and without much criticism arose.

THE records of the new appointees were severely scrutinized. McNinch's standing as a Democrat was attacked and his appointment was alleged to be in recognition of his aid to Hoover in the 1928 campaign.

Garsaud's record was combed for evidence of subservience to the public utilities in Louisiana. George Otis Smith's past was reviewed and his writings on power development examined. The charges were not conclusively proved but many critics were willing to condemn the new commissioners on circumstantial evidence.

The commissioners apparently tried to "live down" the fact that they had newly emerged from the hot-bed of politics. Despite the efforts of the new commissioners they could not entirely divorce themselves from the recent past. Placed in this difficult position they responded courageously by endeavoring to investigate power problems and submit positive recommendations to Congress.

MANY informal conferences were held with representatives of applicants and licensees and studies were launched to gather facts upon which judgments might be made. Far from agreeing with Bonner that electrical transmission was a local problem that might be left chiefly to the states, the new commissioners took the view that electrical power development trans-

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cended state or even regional lines and was national in scope.<sup>22</sup>

THE commission reported that the public interest required "the early vesting of authority in the Federal government to control, so far as it may be determined to be within its jurisdiction, the regulation both of electricity in interstate commerce and the holding company in the power industry."<sup>23</sup> Specific amendments to the Federal Water Power Act were suggested, to wit: that the prudent investment test be adopted to strengthen the commission's authority in fixing the proper cost basis; and that its regulatory authority be clarified particularly with regard to the troublesome question of state versus Federal jurisdiction. While these recommendations are in themselves not important to this discussion if taken as reflecting the more positive nature of the reorganized commission they are highly significant.

The time is not yet come, however, for the commission to set itself up as an independent establishment. The request of President Roosevelt for the resignation of Chairman George Otis Smith came as a fresh reminder of the fact that water power is still a political issue.

In the past, as we have seen, the commission has reflected the policy of the occupant of the White House. The present commission takes its policy from the declarations of President Roosevelt. This is desirable at the present time in view of the vicissitudes the commission has suffered and in view of the critical phase our power policy is undergoing.

<sup>22</sup> Annual Report, 1931, p. 7.

<sup>23</sup> *Ibid.*, 1932, p. 5.

THE commissioners can develop administrative standards only in terms of a clear national policy. If the commission is to operate harmoniously its activities must be related to a general administrative program. Accordingly, the declaration by the President of a general governmental policy in relation to all forms of water use assumes great importance.

Today agreement between the administrators and the Chief Executive on the policy to be followed has resulted in clarifying and strengthening the position of the commission. It is through the Chief Executive that the commission is linked with the other agencies of the government concerned with the development of power and the conservation of natural resources. The Federal Power Commission deals with a portion of the great mass of problems involving rivers, forests, and public lands. That its work should be closely integrated with other agencies concerned with similar problems seems self-evident, but this condition has not obtained in the past.

THIS need for coördination was recognized in President Roosevelt's appointment on July 9, 1934, of a National Power Policy Committee.<sup>24</sup> Here representatives are brought together from the various Federal agencies concerned with power development. The committee serves as an advisory body to the President and is

<sup>24</sup> The members of this committee are: Secretary of Interior Ickes, Chairman; Dr. Elwood Mead, Reclamation Bureau; Frank R. McNinch, Chairman of Federal Power Commission; Morris L. Cooke, Water Resources Committee, PWA; Major-General Edward M. Markham, Chief of Engineers; Robert E. Healy, Federal Securities Commission; T. W. Norcross, Forest Service; David E. Lilienthal, TVA.

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**Q** "For the first time in its history the Federal Power Commission is being taken seriously as an agency for the development of a national power policy. It now has the political support that is essential if any accomplishment is to result. It is now protected from the influences of economic and sectional groups by the strength of the President's interest and guidance."



to develop a unified national power policy.

**C**ONGRESS likewise has recently endeavored to regard the power problem in a dispassionate spirit. The Norris-Rankin resolution passed during the last session directed the commission to discover the rates charged for electricity in this country. The Electric Rate Survey is to provide a factual basis to aid in standardizing rates. The National Power Survey is to disclose our needs for electrical power and the most efficient and economic sources for filling these requirements.

The commission down to the present administration has been a failure. Judged in terms of its potentialities as set forth in the broad and liberal Act of 1920, the commission during thirteen ill-starred years accomplished little. The past eighteen months have brought great changes for the commission. For the first time in its history the Federal Power Commission is being taken seriously as an agency for the development of a national power policy. It now has the political support that is essential if any accomplishment is to result. It is now protected from the influences of economic and sectional groups by the strength of the President's interest and guidance.

**W**ITH the administrative purpose thus made clear and those on the governmental side agreed as to public policy, the representatives of special interests fall into their proper place. As advisers and coworkers in the technical field and as frank exponents of their own interests on controversial matters they can then lay before the administrator their opinions, desires, and their needs.

Free coöperation with these various interests is compatible with the general welfare when the official is instructed in accordance with an accepted and responsible declaration of public policy. He cannot make his way against adverse economic and social pressures unless his administrative purpose is clear and his authority is commensurate with his goal. Establishing these conditions is a duty of political leadership which if neglected leaves the administrator as the residuary legatee of those political pressures to which the legislator is the rightful heir.

In the past the politically powerful groups with which the commission came into contact were chiefly identified with the private control and operation of power utilities. A change is now taking place among the social and political forces surrounding the commission. The creation of the Tennessee Valley Authority and the

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great Federal projects on the Columbia river and at Boulder dam will build up in time great vested interests, both political and economic, supporting government ownership of power plants.

**T**HE political influence of those advocating governmental ownership will counteract the influence of those standing for private operation and vice versa. The pressure on the commission in the future will probably not be as one-sided as it has been in the past.

What is to be the place of the Federal Power Commission? Clearly we cannot entertain the conception of administration by an entirely independent commission. The President, no matter what his economic philosophy or his political theories, will find that in greater or less degree his program and the jurisdiction of the Federal Power Commission will touch.

Can a way be found for building proper relations between commissioners and the President—for this is the crucial spot in the future of the commission just as it has been the determining factor in the past? It must be recognized that the President has the right and the responsibility of guiding the work of "independent" commissions when their province of administration impinges upon his task of executive leadership. This relationship is a delicate one and whether it can be regularized by a statutory prescription is doubtful.

**T**HE suggestion seems sound that the President should have the

right to remove commissioners with whom he is dissatisfied provided a majority of the two houses of Congress agree. If the commission during this administration lays down a definite policy after a careful survey of our power resources and national needs its chances of realizing its objectives and of retaining its leadership will be vastly enhanced.

The White House is occupied by transients; our commissions are better designed for continuity in policy. No sensible commissioners will bluntly defy the President; but no wise President will ignore the views of a commission that has gained public confidence and esteem through the clarity and thoroughness of its understanding of the nation's power interests. No legal changes or governmental devices are needed to remedy the failures of the past. Then unfavorable political conditions made accomplishment almost impossible. Now the situation is changed and the commission need only take advantage of the opportunities of the present.

**O**NCE a definite, constructive policy is established, the Federal Power Commission need have little fear of political storms that may arise in the future. Politics in past administrations has hampered the activities of the commission but national policy today dictates that this body take an active part in the solution of our national power problems.

If the Federal Power Commission meets this challenge, its place as an important governmental agency is certainly assured.

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## What Others Think

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### The Washington Plan and Other Short Cuts in Utility Regulation

THE recent offer of the electric utility companies serving the New York city area (most of them being subsidiaries of the Consolidated Gas Company of New York) to put into effect the so-called Washington Plan for electric rate-making purposes has attracted national attention to this exceedingly successful device which was carefully analyzed by the late Aaron Hardy Ulm in *PUBLIC UTILITIES FORTNIGHTLY* as far back as its issue of November 27, 1930.

For the benefit of those who are not familiar with the working of the Washington Plan, here is a thumb-nail sketch of what happens: First of all the utility company and the regulatory authorities of the city or state must agree to a certain rate base. (Whether this rate base is computed on present value or investment cost is a detail that has to be threshed out by the parties.) The important thing is that once agreed upon, the rate base is frozen except for additions and betterments. Following this the company puts into effect rates calculated to yield approximately 7 per cent return on the agreed rate base. Now if and when consumption increases, resulting in an increase in net revenue providing more than 7 per cent return on the agreed rate base in any year, part of that profit is adopted as the basis of a rate reduction for the following year—in other words, a profit-sharing arrangement.

The formula by which the amount of the reduction is arrived at in Washington, D. C., under the present agreement of that city with the Potomac Electric Power Company is somewhat complicated in detail, although the general

principle is simple enough. One half of the profit in excess of 7 per cent, but not in excess of 8 per cent, goes back to the public by way of rate reductions to cover that amount. The other half goes to the company. As a second step three fourths of any profit in excess of 8 per cent but less than 9 per cent goes back to the public by way of rate reductions, the remaining fourth going to the company. As a third step, five sixths of all profit in excess of 9 per cent goes to the public—one sixth to the company.

There is a similar scale by which rates may be increased when and after profits have diminished to 6.75 per cent for any two years or 6 per cent for one year.

THE arrangement has apparently worked out beautifully for both the company and the public in the capital city. When it was first put into effect in 1923 (the original agreement was somewhat more liberal to the company), the rate in that city was 10 cents per kilowatt hour. Since that date to this there have been eight reductions. The average rate per kilowatt hour in October, 1934, was reported to be 2.42 cents. The dividend on common stock of the Potomac Electric Power Company in 1934 was 28 per cent and has in the past ranged from 12 to 8 per cent annually. Aside from having one of the cheapest domestic rates in the United States for fuel generated current, consumption has increased under the Washington plan.

Of course, as pointed out by William A. Roberts, people's counsel of the District of Columbia, the capital city utility

## PUBLIC UTILITIES FORTNIGHTLY

has the advantage of an especially low tax which is reported to amount to about 4 per cent of its gross receipts, whereas the average tax paid by power companies throughout the country Roberts estimated at 13 per cent and, in the state of Washington, 21 per cent of gross revenue.

**C**OMMENTING on the offer of the Consolidated Gas Company to put the Washington Plan in effect in New York, Bernard Kilgore of the editorial staff of *The Wall Street Journal* doubts that the plan could ever be successfully installed in the metropolitan area, because of certain opposition that would develop, including political complications. Mr. Kilgore finds that there is one big catch in applying the Washington Plan to the New York area; that is, the necessity for reaching an "agreed rate base." Mr. Kilgore stated:

It is easy for the Consolidated Gas Co. or anybody else, to write about "an agreed rate base." The trouble is finding one. It was hard enough in the District of Columbia, where the original Washington Plan is still in effect, to reach an agreement. In New York it undoubtedly would prove impossible—at least in the near future.

Usually men are willing enough to let the markets determine values, on the plain assumption that a thing is worth just about what you can get somebody to pay for it. Yet this assumption doesn't work in the case of a utility property, because if the rates largely determine the market values and if market values are used, in turn, to fix rates the process represents thinking in a circle—and a vicious circle at that.

Hence, in utility valuation it has been necessary to evolve various artificial devices. Those are usually called "valuation theories." There is the "original cost theory," the "reproduction cost theory," the "prudent investment theory," and so forth—all of them resulting from the fact that the ordinary yardstick of commercial or market value cannot logically be employed.

The Supreme Court of the United States, which has reserved the right under the due process clause of the Constitution to pass upon such matters as utility valuations, has never laid down an iron-clad, blanket rule.

No wonder, therefore, that the phrase "fair rates" is so frequently bandied about with no effort on the part of those who use it to say more specifically what they are talking about.

**J**UST the same the Washington Plan appears to have captured the imagination of newspaper editors in far distant parts of the country and as a result it is not unlikely that state legislatures may look into the possibility of applying the Washington Plan to other local operations. For example, the *Morgantown* (W. Va.) *Post* offers the following commentary:

The beauty of the plan is that it encourages electric consumption, and as consumption has increased, it was possible for the company to sell its electricity cheaper. Instead of the vicious circle so often found in rate structures, the Washington Plan is a beneficent circle.

The plan is not self-operative, however. It calls, first, for an agreement between producer and consumer on the fair value of the property used to serve the consumer. Such an agreement depends upon fairness and co-operation on both sides.

It calls, next, for a workable machinery to provide for increases in the rate base, or deductions therefrom, as the plant is added to or subtracted from. In Washington, additions cannot be built to the utility plant without the approval of the supervisory and regulatory authority.

And the third essential is honesty and fairness on the part of the producing company to give the plan a fair and reasonable opportunity to succeed.

With these three elements, there is no reason why the plan should not be as successful elsewhere as it has been in Washington.

With electric companies all over the country facing the direct challenge of lower rates, it is altogether possible that a widespread adoption of the Washington Plan may be proposed in the coming year.

*The Detroit (Mich.) News* thought that the Washington Plan might be a solution to the current gas rate agitation in the motor city. The *News* stated:

The New York companies have proposed the Washington Plan because they realize it is far better to have their continuance assured on a fair basis than to fight repeated threats of competition and municipal ownership. It would save most if not all of their present investment, and would make money for extensions and improvements easier to get. And of course the prospect of lower rates is pleasant to consumers.

Why not try the Washington scheme in connection with our gas rate controversy?

## PUBLIC UTILITIES FORTNIGHTLY

**A**DVOCAKES of public operation of utilities in competition with private operation as the best means of insuring low rates were inclined to minimize the importance of any other system of regulation than that of public competition. Even as to the Washington Plan, it was stated by some that the low rates were originally put into effect, not so much because of the effectiveness of the plan itself, but because of the threat of government ownership. It is significant to note that General Mason M. Patrick, former chairman of the District of Columbia Public Utilities Commission, strenuously denied that lower rates in the capital city were ever put into effect under threat of government ownership. Incidentally, the records do not bear out the statement that there was ever in the past any serious threat of public ownership of the electric service in Washington, D. C.

Just the same, Chairman Frank P. Walsh, of the New York State Power Authority, in a recent letter to Mayor La Guardia, warned the latter against being persuaded to abandon the plan of municipal operation of an electric plant in New York city; and an article to the same effect, published in *The Nation* by Chairman Walsh, reviewed what he called the failure of state commission regulation in New York city to reduce rates. He pointed out on the other hand the results which he claims have been obtained by reason of public competition.

The effectiveness of public competition in reducing the rates charged by private companies has been demonstrated in too many cities to be longer open to question. In Washington, Cleveland, St. Louis, and more recently in Cincinnati, under this influence, residential rates have come down to levels far below those prevailing where regulation is the only means of public control. Canada offers even more striking evidence, especially in the story of Montreal. There, as the result of a small municipally owned distribution system in a separately incorporated residential section of the city, the great Montreal Light, Heat, and Power Company has steadily reduced its rates throughout the entire city until a residential use of 50 kilowatt hours a month costs only 3.2 cents per kilowatt hour. With

larger residential usage the average rates correspond closely to those suggested in the power authority distribution-cost survey. On the basis of these rates the company has been exceedingly prosperous.

The effect of President Roosevelt's public yardstick program, which he has designated as a new national policy, is increasingly apparent in the revision of rate schedules in this country. The Tennessee Valley Authority is already a potent influence. Private utilities are being forced to change their reactionary attitude. Perhaps the most interesting instance of the effect of this pressure on the private power interests is to be found in the very recent indication that the great power combine which provides more than 75 per cent of all the electricity sold in New York state is anxious to compromise on the basis of the contract plan which has resulted in rate reductions in Washington, D. C. The immediate cause of this change of attitude has been the decision of the La Guardia administration in New York city to go swiftly forward with plans for a municipal plant to serve a section of the city.

**“T**HE small municipally owned distribution system" which, according to Chairman Walsh, had such salutary effect on the rates of the Montreal Light, Heat & Power Company can be identified as the city distribution system at Westmount, P. Q. The fact that the city of Westmount serves only approximately 5,100 domestic electric meters while the private company in Montreal serves approximately 278,000 meters makes the suggestion that the city of Westmount has forced down Montreal rates sound very much like the proposition that the tail wags the dog.

Major J. C. Kemp, commissioner of light and power of the city of Westmount, was quoted in *The Wall Street Journal* as follows:

The New York State Power Authority report is entirely wrong and misleading. Westmount does not produce any power, nor is it a "yardstick"—whatever that may mean. As a rule, the rates in Montreal are first reduced, and we follow. We buy power "wholesale" from Montreal Light, Heat & Power and distribute it in our municipality.

The city of Westmount closed down its own small steam plant, Major Kemp explained, because the city can buy power cheaper from the private com-

PUBLIC UTILITIES FORTNIGHTLY



NO LONGER A HEN WITH ONE CHICK

pany in Montreal than it can produce power itself.

**I**N addition to the Washington Plan and public competition, another very interesting plan for solving the problem of rural electrification, announced by Mr. Harvey C. Couch, president of the Arkansas Power and Light Company, commanded national attention during recent weeks. The experimental plan by Mr. Couch's company will provide a farm section selected in Arkansas with electricity under conditions similar to those now being considered by the Federal government. In one respect

Mr. Couch's plan outdoes the government's own ideas since the Arkansas utility executive proposes to supply the means by which farmers can secure the money with which to pay for the electric equipment they buy and the energy they use. In brief Mr. Couch plans to have his power company build transmission lines into rural territory not now supplied with service. The company will undertake to erect lines whenever as many as three customers to a mile can be obtained. In addition it will wire the farm homes and furnish appliances, the cost to be repaid on a monthly payment plan extending over

## PUBLIC UTILITIES FORTNIGHTLY

five years. It will give farmers and other home owners sufficient employment in building the service lines to cover their down payments on wiring and equipment and perhaps something more.

So much for getting electricity to the farmer's door and installing his appliances. But how will the financially distressed farmer pay for these things? Here the most unique phase of Mr. Couch's plan comes into play. The company will supply poultry and cows and aid in marketing the produce, so that the farmer will have new income with which to retire the indebtedness on the electrification. The initial work will be financed by the companies but if the plan works out successfully and is extended on a large scale, the government will be asked to aid in the financing. Mr. Couch estimates that eggs from five good hens would pay for electric lighting in a farm home, two would pay for ironing, one for washing, and two or three for water pumping.

**T**HE reaction to Mr. Couch's plan was generally favorable although there were some doubts expressed as to whether it would work out. However, since the plan would be generally beneficial to farmers and would apparently injure no one, all observers apparently wish well for the success of the Arkansas experiment. In a lighter vein, the *Charleston (W. Va.) Gazette* saw amusing consequences if the bartering of other commodities for utility service were followed to any great length. It stated editorially:

This brings to the imagination still wider possibilities. Nearly every user of electricity, gas, water, has something he would like to trade in on his bills at the end of the month—a few articles of second-hand clothing, that rickety chair in mother's room, the wobbly table in the living room.

Perhaps the dog wagon man would like to pay his gas bill with hot dogs and hamburgers. Likely as not the bootlegger would be pleased to settle with a quantity of "corn." No doubt the laboring man would be willing to shovel a little coal or remove the snow from the walks in front of the water plant if the company will tear up his bill.

Surely the struggling young physician would be delighted to diagnose the ills of the employees of the utilities and prescribe for them. Perhaps the minister—but then, salvation is free.

While the country at large seems to have a disposition to consider the possibilities of innovations in the regulation and operation of public utility service, there is also evidence that state commission regulation is firmly entrenched as a basic institution of administrative government. *The Hartford (Conn.) Courant*, apparently believing that this is the most satisfactory form of utility regulation over the long range, stressed the importance of utility companies supporting state commissions during the present critical period of our existence by intelligent coöperation and a cessation of resistance against the exercise of commission authority. The editorial concluded:

Once the public gets the notion that the commission is prevented by law from being as regulatory as the occasion may seem to demand, encouragement is given to just such actions as are now being witnessed in New York state. The utilities should desire as earnestly as the public itself that the commission created to regulate and control them has every means of regulation at its disposal and full power to act on its own initiative.

**A**s evidence that the American people, after all is said and done, really do regard state commissions as the backbone of fair, lasting, and effective regulation of public utility service, one needs but to review the record of new legislation affecting this subject being proposed in a number of the forty-four state legislatures now meeting in regular session throughout the country. Where these bills—too numerous to attempt to mention even by name—deal with state commissions, it is generally by way of increasing the commission's jurisdiction. Not one proposal has yet come to the attention of this reviewer during the current legislative session that would abolish any state commission. Few of them would even curtail its jurisdictional powers. A notable exception is a movement afoot in Ten-

## PUBLIC UTILITIES FORTNIGHTLY

Tennessee to curtail the power of the Tennessee commission over activities of the Tennessee Valley Authority.

—F. X. W.

**EFFECTIVE RATE REGULATION.** By William A. Roberts. *National Municipal Review*. November, 1934.

**THE WASHINGTON RATE PLAN.** By Bernard Kilgore. *The Wall Street Journal*. January 7, 1935.

**WASHINGTON PLAN.** Editorial. *Morgantown Post*. January 2, 1935.

**FAIR UTILITY RATES.** Editorial. *The Detroit News*. January 3, 1935.

**THE POWER CRISIS.** By Frank P. Walsh. *The Nation*. January 16, 1935.

**AN OFFICIAL OF WESTMOUNT HEARS WITH SURPRISE ABOUT "ACHIEVEMENTS" OF CITY OWNED POWER PLANT.** By Dwight Moody. *The Wall Street Journal*. January 10, 1935.

**UTILITY BILLS.** Editorial. *The Charleston Gazette*. January 4, 1935.

**PUBLIC UTILITIES COMMISSIONS.** Editorial. *The Hartford Courant*. December 26, 1934.

## Propaganda—Of the People, By the People, and For the People

**"P**ROBABLY the greatest peace-time propaganda campaign ever conducted!" This, the Federal Trade Commission says, is what it found when, as directed by Congress, the commission investigated the private utility industry and studied methods it used "to influence and control public opinion."

In view of developments in the utility field during the last several years, there may be some who regret that Congress did not order the commission to report also on the "propaganda and publicity" methods employed by governmental utility enterprises. But, when the 70th Congress approved the late Senator Thomas J. Walsh's resolution for the utility investigation seven years ago, who foresaw the government entering the utility business on its present scale? Who foresaw the government establishing "yardsticks" for measuring electric service, or that the government would attempt "to influence and control public opinion" by using some of the propaganda and publicity methods so frowned upon by the FTC? Yet, judging from a recent article on the subject, all this has come to pass. In fact, after reading Marshall E. Dimock's article in *National Municipal Review* on "Selling Public Enterprise to the Public," one wonders what would

have been the commission's verdict if it had investigated publicly owned as well as privately owned utility publicity methods.

**A**t any rate, Mr. Dimock reveals some very interesting publicity methods employed by government utilities not only in this country but also in Great Britain. The author describes one method whereby the public relations director of the Central Electricity Board of that country is enabled to gain wide circulation and a virtual monopoly of his press releases by means of distributing them to interested organizations. Mr. Dimock points out that by using this method the net effectiveness is the same and at the same time the complete onus for the advertising and propaganda does not rest upon the *quasi* governmental agency.

Interested groups also can be used by the government utility in defending itself against its adversaries, says Mr. Dimock. As a good example of this he refers to the practices of the Los Angeles Department of Water and Power, a municipally owned system which is said to be the largest of its kind in the United States. This municipal utility organization, the author tell us, maintains a full-fledged publicity and educational division and publish-

## PUBLIC UTILITIES FORTNIGHTLY

es large numbers of pamphlets, descriptive stories, and informational tracts relative to the department of water and power. In defending itself against its adversaries and arousing interest and support among its citizens this governmental agency makes very important and consistent use of an organized Citizens' Defense League, of which the author says:

This organization, although an unofficial one, works in close coöperation with the director of public relations of the department of water and power. Its membership is composed of public-spirited individuals who are interested in protecting municipally owned services and in extending their efficiency and prestige. When information comes to the department of water and power or when controversial issues must be dealt with, and it is not considered desirable for the administration to deal with them per-

sonally, the Citizens' Defense League frequently can render valiant service in the department's behalf.

TURNING to the publicity methods of the Federal government utility operations, the author cites practices of the TVA which, he says, relies almost exclusively upon the personal contacts between the director of publicity and individuals in the field of journalism, radio, and other opinion-forming agencies. This is a method which the TVA has used with outstanding success, according to the author. It is of special interest to note that this method is used first to learn what the public thinks and then to keep the public informed and contented. Stating that the TVA publicity parallels that used by the British Broadcasting Corpora-

### SPEAKING OF CANNED EDITORIALS!

THE BISMARCK (N. D.) TRIBUNE

NOVEMBER 16, 1934

MIAMI (FLA.) DAILY NEWS

NOVEMBER 17, 1934

#### Public Power Wins Again

The people of Memphis, Tenn., seem to have been about as thoroughly sold on the merits of publicly owned and distributed electric power as any people could possibly be.

At the recent election, the voters of Memphis were asked to approve a \$9,000,000 bond issue to acquire an electric distribution system for TVA power. By the amazing vote of 33,476 to 1,948 the bond issue was carried.

Not only is this an unprecedented majority for approval of a bond issue—especially at this moment, when voters are loath to saddle local governments with new obligations—but the affirmative vote was nearly 10,000 above the total vote ordinarily cast in a Memphis election.

Whatever the rest of the country may think of the TVA plan, Memphis evidently is heartily in favor of it.

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... designed and written for reproduction in the editorial columns of newspapers and usually used by the editor as his own."

—Excerpt from *Federal Trade Commission Report on Utility Propaganda*.

## PUBLIC UTILITIES FORTNIGHTLY



Newark Evening News

"NEXT!"

tion, Mr. Dimock explains its operations as follows:

In both cases the director of public relations is a former newspaper man, who has a wide circle of acquaintances among journalists, radio broadcasters, and men in public life. When this type of public relations technique is adopted, the all-important consideration is for the publicity director to remain "one of the boys." By rubbing shoulders with newspaper reporters he finds out what the attitude of the newspaper is, what various segments of the public believe, and what the newspapers want in the way of new stories. By this type of personal relationship, criticisms which appear in the press editorially can be immediately taken up with the editor, when frequently a friendly conference is all that is necessary to clear up the outstanding difference. Not only is this method a means of obtaining support on the part of influential newspapers but it is an important

means of informing the administration of policies or practices which are open to criticism. This aspect of the method under consideration is obviously of very great importance. For example, the director of publicity of the Tennessee Valley Authority makes it a practice to collect all criticisms, both adverse and favorable, each week and to circulate them among the higher officials of the Authority in the form of a weekly circular. It has been found that this method of keeping in touch with official and unofficial criticisms is one of the most important methods of improving administration and of holding the support of the various governmental units and the press.

COMMENTING on the Dimock article under the caption "Selling' Public Service," *The New York Times* asks whether the children of light in their new generation are growing as wise as the children of this world? Any one

## PUBLIC UTILITIES FORTNIGHTLY

reading Professor Dimock's article will be inclined to think so, says the *Times* reviewer as he finds the author "impatient of the old-fashioned reticences which continued to cloak many public agencies long after the days when a British Postmaster General who proposed that the telephone service should be popularized was rebuked by the Treasury, which objected to 'anything in the nature of solicitation, and above all personal solicitation.'" Declaring that Mr. Dimock is for solicitation, and the more personal the better, the *Times* continues:

His article sets forth the approved technique of public relations for public agencies: the handling of complaints, the issuance of "statements and editorials [sic] in response to outside criticisms," advertising, staff training in publicity methods, the preparation of "officially inspired educational releases" [sic again], and the "establishment of personal relationships with other publicity and propaganda agencies."

Taking the occasion to point out that some of these publicity devices as employed by private utilities have been the object of considerable scrutiny lately, the *Times* remarks:

The Federal Trade Commission, for example, has been horrified at the manner in which the utilities have resorted to them in their efforts to "influence and control public opinion." What will the commission think when it learns that the Los Angeles Department of Water and Power, the great municipal ownership venture in Southern California, "employs all of the public relations methods" referred to? Others have assiduously cultivated one or more of them.

Naturally the editorial writer in the

*Times* finds of special interest Professor Dimock's account of the TVA publicity methods in overcoming criticism which appears in the press. The editorial concludes:

The director of public relations of the Tennessee Valley Authority "relies almost exclusively," we are informed, on "personal contacts with individuals in the field of journalism, radio, and other opinion-forming agencies." Professor Dimock explains that "when this type of public relations technique is adopted, the all-important consideration is for the publicity director to remain 'one of the boys.'" Criticisms which appear in the press editorially can then safely be taken up with the editor, when frequently a friendly conference is all that is necessary to clear up the outstanding difference.

**B**UT is this really cause for concern? It would appear that the TVA or any other Federal authority in the utility field would have a long way to go before it could hope to match the effectiveness of the publicity methods of the Central Electricity Board in Great Britain to which earlier reference has been made. According to Professor Dimock, the board's public relations department is so thorough in its work that it makes adverse criticism of the governmental undertaking "virtually impossible." When an organization can function with such a degree of perfection, what justification is there for criticism anyway?

—E. S. B.

SELLING PUBLIC ENTERPRISE TO THE PUBLIC.  
By Marshall E. Dimock. *National Municipal Review*. December, 1934.

"SELLING" PUBLIC SERVICE. Editorial. *The New York Times*. January 6, 1935.

## A New Reference Work on the Law of the Air

WHILE the attention of most students of utility regulation has been held fast by the kaleidoscopic developments that have taken place during the last two years in the regulation of gas, electric, and telephone service, as well as the two older services, water

supply and transportation, let no one think that the twin babies in the field of public service—radio and airplanes—have not been accumulating a regulatory literature all of their own.

Of course, it is generally known that the rapid and widespread adoption of

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the radio and airplane in the United States and abroad since the World War has resulted in the enactment of regulatory statutes and ordinances by every civilized nation and has brought about international complications that have led to important conventions and treaties and to new applications of existing treaties. These regulations and the judicial decisions in which activities of government in this new utility field have come under court review have accumulated so rapidly that the compilation of authoritative text relating exclusively to the law of the air has not already been available in an up-to-date form.

To those who have to work with or are interested in this field of the law, Howard S. Le Roy's "Air Law" should be of great assistance. This new work collects, classifies, and collates (in chronological order as much as possible) ordinances, statutes, treaties, administrative rulings, and judicial decisions with reference to radio, aeronautics, and air rights related to realty—all arranged according to their relation to municipal, state, national, foreign, or international action. The book

is well indexed and equipped with handy cross references and author's notations. The bibliography section is quite complete, listing 470 references to various types of publications, some in foreign language.

The background of Mr. Le Roy indicates that he is well qualified by experience for authorship in this field. He has served as Assistant Solicitor of the State Department during the Paris Air Navigation Convention (1919); as U. S. legal adviser at the International Radio Telegraph Conference at Washington (1927); as member of the communications committee of the American Bar Association (1930). He is at present connected with the International Committee on Radio and teaches air law at one of the law schools in Washington, D. C.

Although the volume is small in size, it is unusually compact and should prove an exceedingly useful reference work in its field.

—KARL KNOX GARTNER,

*AM. LAW. Outline and Guide to Law of Radio and Aeronautics.* By Howard S. Le Roy. Randolph Leigh Publishing Co., Washington, D. C. 1935. Pp. 120.

## Notes on Recent Publications

**ECONOMIC PRINCIPLES UNDERLYING ELECTRICITY.** Published by the Montreal Light Heat & Power, Consolidated, in both English and French. 44 pages.

Here is an excellent collection of open letters which the Montreal Light Heat & Power Company has been publishing in the Quebec daily press, dealing with the fundamental principles underlying supply and maintenance of adequate electric service to homes served by this company. The letters were written with the express purpose of explaining the problems involved and the factors determining rates and rate structures. It is a work that publicity men of American utilities might well consider.

**NEW FEDERAL ORGANIZATIONS.** By Laurence F. Schmeckebier. The Brookings Institution. Washington, D. C. 1934. 199 pages. \$1.50.

A valuable handbook for the inhabitant

or visitor in Washington who is bewildered by the maze of alphabetical bureaus. The book enumerates 47 new or enlarged major organizations and numerous subsidiary corporations created or enlarged by the Federal government between March 4, 1932, and June 30, 1934. The scope of each unit is given with the reasons for its creation, the location of field offices, and statistical measure of its activities.

**TRAINS.** By Robert Selph Henry. The Bobbs-Merrill Co., Indianapolis. 1934. 110 pages. \$2.50.

Handsomely illustrated specimens of historic photos, as well as modern art photography. This book tells the story in plain but stirring language that would fascinate a boy of twelve, as well as his father and grandfather, of the romantic history of the iron horse from the days of James Watt down to the latest streamline job.

# The March of Events

## Holding Company Bill Studied

After conducting a long study of public utilities for the House Interstate Commerce Committee, Dr. W. M. W. Splawn recently told its members that he felt the utility industry would help toward working out a holding company bill.

Bernard F. Weadock, vice president of the Edison Electric Institute, issued a statement which said that "instead of proving the necessity for this bill, Dr. Splawn's testimony actually supports the position of the public utility industry; namely, that if any further legislation is necessary, it should be corrective and not destructive."

Weadock's statement said that "the public utility executives are already on record (before the House and Senate Committees in charge of this bill and before the public) in favor of such reasonable regulations as may be necessary."

Upon receipt of the printed bill, comprising 178 pages, the responsible heads of 18 public utility companies telegraphed requests to Chairman Rayburn (House) and Wheeler (Senate) of the Interstate Commerce Committee for an opportunity to "prepare and make proper presentation . . . as to the facts of the situation." The utility executives termed the proposed legislation one of the most drastic and far-reaching proposals which Congress has ever been called upon to consider.

Dr. Hugh S. Magill, president of the American Federation of Utility Investors, termed the proposed legislation an attempt to "cure the ills by killing the patient."

## Utilities Deny FTC Charge

RECENT reports of the Federal Trade Commission charging utility companies with evading payment of just taxes and with market manipulations met vigorous denial by the utility industry.

The Edison Electric Institute came to the defense of public utility holding companies by denying the latter evaded payment of just taxes, as charged by the Federal Trade Commission, according to the *Associated Press*.

"There has been no tax evasion by public utility holding companies," asserted the institute in a statement issued at its New York headquarters, "as was implied in the February 11th news release of the Federal Trade Commission on consolidated tax returns."

"Under the Federal tax laws, holding com-

panies for a number of years were required, and for many years were permitted, to file consolidated returns for all their subordinate companies. In doing so, the regulations of the Treasury Department were scrupulously followed in complying with the law which the Treasury itself repeatedly praised.

"The trade commission was surely aware that the practices followed by holding companies were legal and ethical and the common practice in other lines of business. It has had eight years to acquaint itself with this fact."

Utility companies likewise protested against the commission's charges of tax evasion and market manipulation of public utility stocks. It was pointed out by one company that there was nothing in these recent charges by the commission which was not brought out in the press, and refuted two years ago.

## Natural Gas Probe Due

After six years of delving into the electric light and power end of public utilities, the Federal Trade Commission will turn the spotlight on the natural gas industry, according to *The Washington Post*.

Hearings on natural gas are scheduled to start in March as an anti-climax to the searching utility inquiry.

Considering the attention paid to natural gas in the proposed holding company bills, indications are that whatever legislation finally evolves from the proposals will embrace that end as well as power.

## Truce on Phone Regulation

FEDERAL efforts during the past two years to obtain control over telephone company operations of purely local and state importance through accounting regulations apparently may be checked by combined opposition of various state commissions. This inference, *The Wall Street Journal* says, is given by the New York Public Service Commission in its annual report for 1934 submitted to Governor Lehman.

"The public service commission and other state commissions," the report states, "have conferred with the Federal Communications Commission, and it now seems likely that the conflict between the state commissions and the Interstate Commerce Commission, which seemed certain to end in prolonged litigation, will be avoided by the adoption of a system of accounts which will provide for uniformity

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and give the Federal commission full information regarding interstate commerce without any attempt to determine purely intrastate matters and without interfering with the regulation of intrastate rates and service."

### Sees Roosevelt on Coal Utility

**S**ENATOR Joseph F. Guffey, (D.) of Pennsylvania, recently took up with President Roosevelt his bill to declare the bituminous coal industry a public utility and to bring it under Federal regulation, according to *The Washington (D. C.) Post*. With him on his call at the White House was John L. Lewis, president of the United Mine Workers.

Beyond the statement that his conference was "very satisfactory," Senator Guffey declined to comment. He said he explained to the President provisions of his bill, which calls for creation of a Federal coal commission and appropriation of \$300,000,000 to acquire a national coal reserve.

### Plans Gas Utility "Yardstick"

**T**HE Public Works Administration is considering allotting \$50,000,000 to build a pipe line to carry natural gas from the Texan Panhandle for possible competition with existing systems in Detroit and St. Louis, according to the *Associated Press*.

The money, Administrator Ickes indicated, would be allotted to an authority to be created by the Texas legislature.

Ickes said the purpose of the pipe line would be twofold:

1. To create an outlet for 1,000,000,000 cubic feet of natural gas wasted every day in the Panhandle.
2. To reduce prices of gas in the vicinity to be served by the line.

He said the cost would be \$30,000,000 for a line from the field to Detroit via St. Louis, and \$50,000,000 for establishing branch lines to the two cities.

Meanwhile, Governor Allred of Texas suggested the project might serve as a yardstick on the price of gas to the consumer.

"We thought the Federal government might be interested in this project as a measuring stick on the price of gas to the consumer, just as it is using the Tennessee Valley Authority in the electrical field," the governor declared.

He stated building of such a pipe line also would reduce gas wastage and would provide a market outlet to independents who now have no pipe-line connection.

### Inquiry of AT&T Asked

**A** RESOLUTION authorizing an investigation of the American Telephone and Telegraph Company by the Federal Communications Commission has been approved by the House Interstate Commerce Committee, according to *The Washington (D. C.) Post*.

The measure, by Committee Chairman Rayburn, (D.) of Texas, would direct the commission to look into reasons for what was termed the general failure to reduce telephone rates and charges during the years of declining prices. It also would investigate the effect of monopolistic control upon the reasonableness of telephone rates and charges, upon methods of competition with independent telephone companies, and upon the character of service given.

The Senate Interstate Commerce Committee previously had recommended the AT&T investigation and had proposed an appropriation of \$75,000 to permit the probe by the communications commission.

## Alabama

### Seeks Approval of Sale to TVA

**A**LABAMA Power Company attorneys have petitioned the public service commission for the second time seeking approval of the power company's contract to sell \$1,000,000 worth of transmission lines and the Joe Wheeler dam site to the Tennessee Valley Authority, according to the *United Press*.

The commission previously had given its approval June 1st, but its decision, contested by coal companies, who appealed from it to

Montgomery Circuit Court, was voided by Judge Leon McCord on the ground that thirty days' legal notice had not been given before the hearing on the petition.

Political observers had expected the power company to appeal to the state supreme court from Judge McCord's ruling, and expressed surprise at the alternative action.

Hugh White, commission chairman, said TVA's North Alabama utility development would continue unaffected by the court action pending final settlement of the controversy.

## PUBLIC UTILITIES FORTNIGHTLY

### Arizona

#### Antimerchandising Bill

**A**BILL recently introduced in the senate would bar utility companies from engaging in the manufacture or distribution of any

article not a direct product of the business of manufacturing or distributing of the utility service. Enforcement would be vested in the corporation commission, according to *The Phoenix Evening Gazette*.

### Arkansas

#### Grants 50-Year Power Franchise

**B**Y a unanimous vote, the Arkansas City council voted recently to grant the Arkansas Power and Light Company a 50-year franchise to furnish electric power, effective as of January 5th, and to buy the water plant from the power company, according to *The Arkansas Gazette*.

The town will pay an annual sum equal to the 5-mill city tax, plus any poll tax or special taxes, such as excise or occupation taxes, except those against the Arkansas Power and Light Company and returnable to the city general fund.

The Arkansas Power and Light Company recently bought the light and water plants from the Associated Utilities Company of Kansas City at a receivers' sale and erected a high-power line from Tripp Junction to Arkansas City.

A measure to make it unlawful for utilities to make charges for installation of equipment with which to sell their service was passed

recently by the house, according to *The Arkansas Gazette*.

Before passage the bill was amended to exempt municipally owned corporations. Among other recent measures introduced in the legislature were the following:

A bill, introduced in the senate, would fix the maximum amount of deposit to be advanced to any utility company in supplying any commodity at \$8; prohibit collection of meter or service charges, and provide a fine of \$25 to \$100 for violation.

Another proposed bill would empower the state fact finding tribunal to fix rates and to provide regulations for submission to the tribunal of pleas for rate adjustments. A senate bill to amend Act 131 of 1933, which authorized municipalities to borrow money from the government to purchase, construct, or improve waterworks plants, is designed to liberalize provisions of the act to permit Little Rock or other cities to borrow money to build reservoirs and pipe lines outside the municipalities.

### Colorado

#### Adopts Light Rate Reduction

**T**HE Fort Collins city council recently passed an ordinance putting into effect immediately the electric rate reduction offered by the Public Service Company of Colorado

in a proposed charter amendment, to be voted on March 19th.

The reduction was offered by the utility in its battle to prevent the city from taking over its plant, according to an item in *The Denver Post*.

### Connecticut

#### Oppose Utility Bill

**T**HE Manchester board of selectmen voted recently to oppose any legislative attempt to give the public utilities commission control over the rates charged by municipally owned power plants, according to *The Hartford Daily Courant*.

A bill introduced by democratic leader John D. Thoms in the house would give the public utilities commission the same control over municipal plants that it has over private companies.

Manchester has no municipal plant but a move to build one has some backers, it is reported.

## PUBLIC UTILITIES FORTNIGHTLY

### Illinois

#### Records Rate Reductions

THE Illinois Commerce Commission in its Seventeenth Annual Report to the Governor published an interesting table showing in detail the various reductions in rates which have become effective during the year 1934, and in addition from January 1, 1933, to December 31, 1934.

It was noted that during the year from July 1, 1933, to June 30, 1934, inclusive, the total savings to consumers, exclusive of the savings of a million dollars a year under the recent Illinois Bell Telephone Company rate decision, from all reductions ordered by the commission were as follows: electric service, \$3,561,259; gas, \$2,251,665; telephone, \$9,745; water, \$7,026; heat, \$34,675.

Including the 3 per cent Federal tax as-

sumed by electric utilities the total savings for the year were \$8,374,653 and for the period January 1, 1933, to December 31, 1934, were \$9,833,713.

In addition to the details of the rate reductions which describe the various utility companies' types of service and locations affected, the commission's report makes an interesting distinction between reductions obtained by "commission action" and those obtained by "voluntary action." The results of both developments are compared to the various periods studied.

The report also reviews other activities of the commission, such as the regulation of securities, service inspection, court litigation, research activities, motor carrier and grade crossing regulation, and recommendations for legislation.

### Indiana

#### Bills Seek Utility Control

RESTORATION of the municipality as the unit for utility rate fixing in accordance with the decision of the United States Supreme Court in the Martinsville Case is among the legislation sponsored by the Indiana Municipal League, recently introduced in the house.

Two other objectives of the league, according to *The Indianapolis News*, are the removal of municipally owned utilities from state and county taxes imposed by the legislature of 1933 and removal of the jurisdiction of the courts over the question of the necessity and convenience of establishing or acquiring municipal utilities.

### Iowa

#### Iowa Power Permit Asked

THE proposed first step in an extensive plan of power development for public benefit in Iowa was placed before the Federal Power Commission recently, according to the *Des Moines Tribune*.

Iowa and its state planning board applied for a power commission permit to construct a dam on the Des Moines river near Bonaparte, 38 miles from the mouth of the river.

In stating it was the purpose of the board to begin an extensive plan of power development by the state and Federal government, the application pointed out the market for the power would be state-owned wood working mills and other small industries and institutions. None of the power would be sold for private profit, the application said.

It was reported to be the first time Iowa had undertaken hydroelectric power development.

### Massachusetts

#### Consider Electric Rate Cut

PROSPECTS of a voluntary reduction in household rates for electricity were regarded as bright following a conference between utility companies' representatives with Governor James M. Curley and members of his "brains trust" at the state house recently, according

to an item published in the *Boston Post*.

After the governor had urged voluntary reductions under a threat to use his influence for legislation which might prove confiscatory, a committee of six persons was appointed—three representing the utilities and three named by the governor—to consider the question.

## PUBLIC UTILITIES FORTNIGHTLY

### Michigan

#### Demands Phone Rate Cut

A RESOLUTION authorizing and instructing the public utilities commission to make "an arbitrary reduction of rates of not less than 40 per cent," has been introduced in the legislature, according to *The Detroit News*. This reduction would apply to the Michigan Bell Telephone Company, exclusively, and would become effective not later than July 15th.

"It appears," says the resolution, "that the rates are greatly in excess for the service rendered. No material reduction has been made in the rates."

The same resolution was offered at the legislative session of two years ago, but it remained in committee. Representative Fenton, who submitted both resolutions, is confident of getting it out of committee this year. It is in the hands of the Rules and Resolutions Committee, of which he is the chairman.

### Montana

#### Stronger Commission Urged

POWERS of the railroad and public service commission would be materially broadened under a series of bills introduced by the house committee on public utilities, according to *The Montana Record Herald*. The bills were drafted by the commission. Regulatory powers of the commission over utilities which operate in the state would supervise and approve the making of the annual budget of the companies, and prohibiting expenditures for items of which the commission disapproved.

Another utility bill, which would provide that the cost of utility rate investigations, which are successful in reducing rates, be assessed against the utility, has been prepared for introduction. It provides that in case the complainants are unsuccessful in their case, they must pay the cost of the investigation. The utility would be allowed to include the investigation cost in its rate base and pass

it back to consumers over a period of years.

The Montana house voted recently to begin an investigation of the affairs of certain corporations and public utilities in the state which, the resolution asserted, included alleged political and propaganda activities.

### Pass Utility License Law

AN ordinance fixing a license fee of \$24,000 a year on all utilities companies that may install gas pipes, fixtures, or equipment in the city of Helena, was passed recently by the Helena city council, according to *The Montana Record-Herald*.

The ordinance provides that the license fee must be collected at the rate of \$2,000 a month every month, and the proceeds shall be placed in the police fund. It also contains a provision placing upon all licensees the duty of filing an indemnity bond with the city for \$1,000.

### Nebraska

#### Recall City Utility Bill

A BILL sponsored by the Nebraska municipalities, giving communities the right to acquire or build municipal power utility units

with debentures retrievable by revenues, has been recalled by the senate after its recent defeat on a floor vote, according to *The Nebraska State Journal*. The bill has been sent back to committee for consideration.

### New Hampshire

#### More Power for Commission

REAL authority over New Hampshire utilities would be given the public service commission under the terms of a bill approved recently by the rules committee of the house,

according to a statement published in the *Boston Post*.

Sponsors of the bill claimed it would put teeth in the commission's rulings, especially in rate dispute cases in which financial data was sought.

## PUBLIC UTILITIES FORTNIGHTLY

### New York

#### Legislative Investigating Committee Reports

EXTENSIVE reductions in gas and electric rates during the next year were predicted by the joint legislative committee to investigate public utilities in a report to the legislature on the results to date of its utility survey, according to *The Wall Street Journal*. The committee also promised a thorough inquiry into existing telephone charges with a view to bringing substantial cuts in that field.

The report made four legislative recommendations: Laws to facilitate the introduction of the Washington plan of electric rates; laws to establish the legality of promotional rate plans; enactments to permit the merger of operating utility companies with less than 100 per cent of stock control; and a change in the present law covering temporary rates. This last recommendation, however, was withdrawn when Governor Lehman insisted it would have undone all he fought for last year. The committee had originally suggested that the present temporary rate legislation is unconstitutional and that it should be amended to substitute fair value for "original cost, less accrued depreciation," and to provide that the rate of return shall be "reasonable," in place of "a return of not less than 5 per cent." However, it later deferred to Governor Lehman's wishes.

The legislature voted to continue the special committee's utility investigation after the public service commission had charged the utilities with seeking to block regulation under the Lehman utility reform laws, enacted last year. During the coming year the committee will consider plans for the regulation of holding companies, for the facilitation of municipal plant operation, and for the elimination of the submetering practice unless the last-named issue is settled in proceedings now before the state public service commission.

The report of the joint committee constitutes an intentional whitewash of guilty power companies and their lobbyists, the Westchester Council of Utility Rate Committees charged in a letter to Governor Lehman. The council demanded that a Moreland commissioner be appointed to perform tasks the legislative committee allegedly evaded.

#### Would Waive Submeter Profit

THE Consolidated Gas system is willing to pass on to the consumers all of the profits it would receive from the abolition of submetering, William L. Ransom, counsel for the companies, told the public service commission recently, according to *The New York Times*.

His statement was made at the first hearing by the commission on the application of the companies to end submetering in the city, the application having been filed in connection with the company's petition to have the Washington plan of rate reduction put into effect.

The net profits from submetering, according to figures read into the record at the recent hearing, are \$9,129,100 a year, but the same figures indicated also that that is a larger amount than would be turned back to the public in the form of rate reductions because of the ending of submetering.

The company would have to deduct \$1,500,000 which, it estimates, would be the cost of buying meters and other equipment now in use by the submetering companies, it was indicated, which would have the effect, for the first year, of reducing the net to the amount of \$7,629,100.

#### Saving in Rates Announced

CUSTOMERS of public utilities in the state will pay \$20,750,000 less for the service in 1935 than they did in 1930, and the total saving to the consumer over a 4-year period has been more than \$61,000,000, according to figures announced by the public service commission. The figures are contained in the commission's annual report to the legislature.

Of the \$61,000,000 total, \$57,300,000 has been the result of rate reductions ordered, or through negotiations carried on, by the commission. It declared also that the saving for 1935 would have been \$31,600,000 compared with the 1930 rates, if orders of the commission had not been stayed by the courts and the companies had put the lower rates into effect.

The reductions applied principally to electric current but the figures are the totals for gas, telephone, electric, water, and steam utilities, according to the report.

### North Carolina

#### Ickes Urges Power Laws

BILLS to authorize North Carolina to go into the power business have been received by Governor Ehringhaus from Secre-

tary of the Interior Ickes, according to *The News and Observer*. They were accompanied by the Secretary's request that the governor recommend their passage by the legislature.

The power bills, which were accompanied

## PUBLIC UTILITIES FORTNIGHTLY

by other proposed laws for North Carolina, would allow the state to create a state electrification authority; manufacture, buy, and sell power; and set up districts for its manufacture and distribution—thus allowing the

state to go as far as necessary, if the commercial companies were not willing to coöperate.

How much further the Ickes proposals went than the governor's own rural electrification program was not made known.

## Ohio

### Plans Rural Electrification

CONSTRUCTION of 3,040 miles of electric power lines at a cost of \$3,648,000 in 680 rural townships in 76 of Ohio's 88 counties was recommended in a preliminary report of the statewide rural electrification survey by the state relief commission.

The proposal, it was said, was submitted to Federal authorities, but what further action may be taken will depend upon what orders the state receives from Washington after Congress acts on the proposed \$4,880,000,000 relief measure.

The purpose of the survey was to obtain information showing the necessity and feasibility of constructing new and additional power lines in areas not now served. It was estimated that the cost of construction of power lines per mile would be about \$1,200.

The survey will be continued to determine the availability of material and possible prices, the cost of rights of way, tree trimming and tree removal, and the reaction of power companies whose lines would be tapped.

### TVA Rates Called "Bait"

THE Ohio chamber of commerce is planning a campaign to keep the South from taking away industries of Ohio and other northern states, according to *The Columbus Dispatch*.

The chamber sent a letter to each chamber of commerce in Ohio warning of "new threats to northern industry."

George B. Chandler, secretary of the Ohio

chamber, said the Tennessee Valley Authority and the Federal government "are planning to seek an adjustment of freight rate schedules to favor the South and to offer Federal credit to industries which will locate in the South."

Industrial development representatives from the Tennessee valley, he said, already have visited large industrial centers in the North, urging the industries to move South.

### Municipal Districts

A BILL recently was introduced in the house to authorize the organization of utility districts, which would own, maintain, and operate electric plants, gas plants, and water plants or systems, according to the *Columbus Evening Dispatch*.

### Exempts Gas Utility

THE measure introduced in the senate would exempt gas and oil companies from being classified as public utilities as long as they confine their activities to the wholesale business.

Should this bill be adopted, amending the Lloyd bill of two years ago, the producers of natural gas will not come under the jurisdiction of the public utilities commission and, as a result, gas rate cases in Ohio, taken before the utilities commission, could not be delved into further than the gas rate, a subject of no little amount of controversy during the past few years of litigation in the Columbus gas rate case.

## Pennsylvania

### Drop Hand-set Phone Charge

MORE than 168,000 telephone subscribers in the state no longer have to pay 25 cents a month extra for "Continental," or hand sets.

The long-established charge of the Bell Telephone Company for such sets was discontinued recently by order of the public service commission.

Subscribers who have used the hand sets two years or more are immediately affected. Some 107,000 other users of the hand sets will continue paying the 25-cent charge until

they have paid two years, or \$6 extra. Then, they, too, will become exempt from further payments.

The public service commission announced that 51 smaller, independent telephone companies in the state have agreed voluntarily to discontinue hand-set charges after two years' payment.

The Pennsylvania Telephone Corporation, largest independent in the state, will drop the charge for 2-year subscribers after March 31st. The 50 other companies will discontinue it after December 31st.

## PUBLIC UTILITIES FORTNIGHTLY

### Tennessee

#### More TVA Bills Passed

SIX more of the TVA bills passed the house February 13th, making 11 of the 12 proposals which have been approved in both branches. The senate has passed all 12 of the measures.

Governor McAlister has recommended passage of the authority's legislative program, and his approval of the measures is assured.

Although minor amendments were inserted

in two of the bills by their sponsors, attempts of opponents of the proposals to limit their provisions met with overwhelming defeat.

The latest bills passed include measures to create state and regional planning commissions, remove publicly owned utilities from jurisdiction of the state railroad and public utilities commission, and permit cities to make contracts with the TVA for the purchase of electricity.

### Texas

#### Utility Merchandising Bill

A UTILITY antimerchandising bill has been offered to the house. Its sponsor, Representative O. C. Venable (Ellis county), pointed out that the bill is not to prohibit anyone from engaging in legitimate competition of any line of merchandise in the state of Texas or elsewhere, but it is simply offered for the purpose of compelling concerns handling such lines to set up a separate corporation or business concern that will separate all the accounts, claims, etc., of such merchandising business from the general utility accounts as submitted to the railroad commission. The

house committee made a favorable report on the bill.

#### Would Kill Service Charge

THE house committee on municipal and private corporations recently reported favorably on a bill to prohibit the "ready to serve" charges by gas utilities, according to *The Austin American*.

This charge in Austin, Wichita Falls, and elsewhere is 50 cents per month per meter, running to about \$30,000 a year in a city the size of Austin, whether any gas is used or not.

### Utah

#### Orders Probe of Commission

A COMMITTEE has been named by Speaker A. Granger of the house to investigate the work of the state public utilities commission.

The house acted after a demand that the public utilities commission be investigated was made by Representative Lamoreaux and after the commission had requested that such an investigation be made.

### Washington

#### Approves State Power Plans

ALLEGING support of President Roosevelt in the construction of the Grand Coulee dam, the house recently passed and sent to the senate a constitutional amendment authorizing the state to produce and distribute electric power, according to the *Seattle Daily Times*. The vote was 91 to 2 with six absent. Passage by two-thirds vote in the senate would put the measure on the voters' ballots at the next statewide election.

The bill empowers the state to construct transmission lines to distribute the electrical energy generated by the Coulee project.

Reconsideration of a proposed amendment

to permit the state to deal with private persons and private corporations instead of only with municipalities as the resolution states, failed to materialize before it was placed on final passage.

#### City Faces Transit Crisis

SEATTLE must solve its transportation problem now or go out of the transportation business, according to the *Seattle Daily Times*. That was what Corporation Counsel A. C. Van Soelen said when he recently discussed the problem of raising \$14,000,000 for new equipment which is now facing the city.

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# The Latest Utility Rulings

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## Investors in Good Faith Are Entitled to Protection

THE Wisconsin commission has taken the position that utility investors who bought securities, approved by the former railroad commission, should not suffer by reason of restrictions on affiliated companies under legislation enacted some years after the investment of their money. In accordance with this opinion the commission amended its former order [4 P.U.R.(N.S.) 280] which prohibited payments by an electric utility to a parent paper mill company.

It was disclosed that the Northern Electric Company was obligated under a joint bond indenture to pay taxes on jointly mortgaged property, including taxes on property now owned by Northern Paper Mills. The latter company was unable to pay all of its current taxes from current cash resources. The electric company desired to pay these taxes in order not to default on the covenants of the mortgage. The commission authorized payment of such obligations of the Northern Paper Mills as would prevent default in the covenants of the mortgage for a year, and

provided that such payments be charged to the account of the Northern Paper Mills on the books of the electric company.

It was provided that at the end of six months and at the end of one year the electric company should file with the commission a full report of its operations and financial condition showing all transactions with its parent company, Northern Paper Mills. Such report must also state arrangements made to insure that Northern Paper Mills will, after one year from the date of the order, meet fully its share of joint obligations.

The commission, after referring to the situation disclosed, said:

However, we see no way of correcting this situation at the present time, inasmuch as the bonds are sold and apparently are for the most part in the hands of innocent investors. We cannot protect holders of a certain share of the bonds as holders of public utility bonds and fail to protect the owners of the remaining bonds, for the public utility here considered is jointly obligated towards holders of all the bonds.

*Re Northern Electric Co. (2-U-625).*



## Past Default of Patrons on Welfare List Not a Bar to Service under City Guaranty

THE Maine commission has ordered a water company to furnish service to delinquent customers upon the agreement of municipal officers in behalf of a city to assume and pay future water bills of such customers, notwithstanding the failure to pay past bills for service.

The commission recognized the right of a public utility to take reasonable protective measures to insure payment for future service. A public utility was

said to be different in this respect than the ordinary tradesman because it is compelled to furnish service. Accordingly, it may ordinarily deny service for nonpayment. But denial of service that has become a necessity to a customer's comfort and happiness, if not to his health and safety, it was ruled, should not be permitted unless it clearly appears that the party desiring the service is not entitled to receive it. The commission declared:

## PUBLIC UTILITIES FORTNIGHTLY

We are of the opinion that when the municipal authorities of any city or town charged with the responsibility of looking after the health and welfare of its citizens properly indicate to a utility rendering service in that community that such city or town will assume and pay future service charges of delinquent customers as in this

case, that city or town thereby becomes the customer of the utility and is entitled to treatment as such.

*Public Utilities Commission v. Camden & Rockland Water Co. (F. C. No. 996).*



### Wisconsin Commission Cuts Charge on Telephone Hand Sets

THE Wisconsin commission, after considering the various cost elements to support an extra charge for telephone hand sets, has concluded that in place of the present monthly charge of 25 cents a recurring additional rate of 8 cents a month for the use of such hand-set instruments is reasonable. The effective date of the change is postponed to avoid conflict with an injunction restricting commission action on telephone rates.

Additional annual expenses in connection with hand telephones were found to be 86 cents as against a company claim of \$2.20. Subscribers asked that the commission authorize a charge terminable after a specified period. The commission, after considering administrative difficulties which the company would experience if a terminable charge were authorized, said:

The commission has considered the relative advantages and disadvantages of recurring and terminable charges for hand-

set instruments, and on the basis of the present record, concludes that for the time being it may be advisable to retain a recurring charge for these instruments. On the basis of our findings, as summarized herein, a recurring rate of somewhat more than seven cents monthly appears adequate to cover the allocated additional cost of hand telephones. Considering only additional *out-of-pocket* costs caused by hand sets, a lower monthly rate would be adequate. We have indicated that the rate for hand-set service should not encourage premature obsolescence of standard station equipment, but we believe no specific allowance should be included in the hand-set charge for loss of investment in instruments other than hand sets due to premature retirements of such other instruments. We also believe subscribers are entitled to improvements in telephone service promptly and without unreasonable expense and we expect that in the near future, the extensive engineering and research organization of the Bell System should be able to reduce the cost of hand sets so that subscribers can be given the convenience of this equipment without additional cost.

*Re Wisconsin Telephone Co. (2-U-35, 2-U-280).*



### Validity of Temporary Rate Laws in New York Unsettled

JUSTICE Schenck of the New York Supreme Court has denied a stay to the Upstate Telephone Corporation against the public service commission, which had ordered a temporary rate reduction. This case involved the constitutionality of the recently enacted statute authorizing rate reductions on the basis of original cost less depreciation.

Contrary to some statements in connection with the public utility investigation by a special committee, the New York courts have not yet passed upon

the constitutionality of this legislation. Justice Staley of the supreme court stayed the operation of rate reduction orders affecting the Yonkers Electric Light & Power Company and the Bronx Gas & Electric Company [6 P.U.R. (N.S.) 337, 341], but his action was based upon the premise that there was a vital constitutional question involved and that if it should finally be determined in favor of the utilities, they would in the interval suffer irreparable loss.

Justice Schenck stated that he was

## PUBLIC UTILITIES FORTNIGHTLY

not unmindful that Justice Staley had recently granted these stays. He continued:

I quite agreed with the principles there laid down and that in those proceedings stays were properly granted. No such situation was there presented as may be found in this application.

In so far as I am able to ascertain, the

constitutionality of § 114 of the Public Service Law has not been passed upon by any court of this state. A judicial decision as to whether that section is constitutional is not essential to a determination on this motion.

*Upstate Telephone Corp. v. Public Service Commission.*



### Objective Rate Plan Altered

THE Alabama commission recently issued an order which, it is said, will substantially lower the cost of electricity to urban residential customers of the Alabama Power Company. It is a modification of an order that became effective October 1, 1933, known as the "objective" or "inducement" plan, which has been adopted by several state commissions since then.

A review of the company's operating income for the year ended October 1, 1934, shows, the commission says, that 80 per cent of the customers were being served under the rate plan with a result that the average monthly charge

for electricity was reduced from 4.6 cents a kilowatt hour in October, 1932, to 3.65 cents in October, 1934, and the consumption increased on the average from 67.3 kilowatt hours to 78.2 kilowatt hours.

Based on this showing, the commission holds that the 5 per cent reductions should be made semiannually instead of annually and that the progress of the plan has been such that the "objective" rate should be applied to all urban residential customers at an earlier date, and that whenever 85 per cent of all urban residential customers are billed at the "objective" rate, this rate should apply.



### Water Company Had Right to Make Second Connection with Private Main

IN Lancaster township, Pennsylvania, the developer of a few lots laid a 6-inch water main for the service of those who should purchase his lots. He connected this main, under proper authority, with a water utility main. Later when the water utility laid other mains on adjacent streets it connected the dead end of the private main to the system at another point in order to improve service. The commission has decided that it had a right to do this.

The owner of the main first complained to a court against trespass and conversion by the water company. The court held that he did not present a case for equity. He then turned to the com-

mission, but the commission held that the water utility was merely seeking to improve the service to the purchasers of his lots who were served from his private main.

When the private line was connected to the water utility system it became a facility of the system and the law placed upon the water company the obligation to make such improvements in the water facilities as might render the best service possible. The commission held that he was not entitled to an order to disconnect nor was he entitled to damages. *Wright v. Lancaster Suburban Water Co.* (Complaint Docket No. 9773).



## PUBLIC UTILITIES FORTNIGHTLY

### Free Telegraph Service Is Regulated by Rules of New Commission

THE newly created Federal Communications Commission has adopted rules governing the issuance of telegraph franks. The commission held that it had authority under the Communications Act to issue such regulations, and it declared that the Communications Act prohibited free service except to certain enumerated classes of persons.

These rules permit the issuance of franks to full-time officers, agents, and

employees of railroad companies, merchantship companies, motor bus companies, air transport companies, telephone companies, telegraph companies, sleeping car companies, express companies, and pipe-line companies as well as to their families. Limitations are placed upon the franked service, including a prohibition of more than \$50 worth of free service in any calendar year. *Re Rules Governing the Issuance of Telegraph Franks.*



### Orders Slash in Mississippi Phone Rates

THE Southern Bell Telephone and Telegraph Company has been ordered by the Mississippi commission to reduce residential rates 15 per cent. The reductions are said to represent an annual savings of \$250,000.

The commission's order also fixed an installation charge of \$1 for residential telephones where the house is already wired, and \$2.50 for residences to be wired. Installation rates for both classes now are \$3.50.

Surcharges on the French style tele-

phones were slashed from 25 cents to 15 cents per month, and this surcharge can be levied by the company for only thirty-six months.

Hotel guests' calls were ordered cut from 10 cents to 5 cents on outside calls, and hotel surcharges on each telephone were reduced from 75 cents to 50 cents per telephone when wiring is owned by the telephone company, and 60 cents to 40 cents when wiring is owned by the hotel. *Re Southern Bell Teleph. & Teleg. Co.*



### Other Important Rulings

A COMPLAINT asking an extension of water service was denied by the Pennsylvania commission where it would involve the laying of slightly more than 1,500 feet of main with a prospective gross revenue of approximately \$30 per year. Another demand for extension was denied where the company had not voluntarily undertaken to furnish water in the particular portion of the township which was involved. *Leprotti v. General Water Co.* (Complaint Docket No. 10122).

The California commission dismissed a complaint alleging discriminatory electric rates in one part of the terri-

tory served by an electric utility, holding that an electric utility has the right to meet in good faith a competitive rate without rendering itself subject to a charge of unlawful locality discrimination. *Heiland, et al. v. Pacific Gas & Electric Co.* (Case No. 3857, Decision No. 27536).

The court of appeals of Kentucky has construed a statute requiring public utilities to pay holders of certificates of deposits 6 per cent annually on amounts exacted as meaning that the company must pay or credit this interest at the end of each year from the date of deposit, providing demand is made by the